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TARIFF AND TRADE BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 4221, H.R. 4428, H.R. 6093, H.R. 6278, H.R. 6280, H.R. 6281, H.R. 6360

SEPTEMBER 16, 1982

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TARIFF AND TRADE BILLS

THURSDAY, SEPTEMBER 16, 1982

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met at 9:35 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press release of Friday, September 10, 1982]

HON. SAM M. GIBBONS, CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES HEARINGS ON CERTAIN TARIFF AND TRADE BILLS, SEPTEMBER 16, 1982

The Honorable Sam M. Gibbons, Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a hearing on Thursday, September 16, 1982, on certain tariff and trade bills to provide duty-free entry, duty increase, and other bills. The hearing will be held in room 1100 Longworth House Office Building, beginning at 9:30 a.m.

Officials from interested executive branch agencies will be the first witnesses. Testimony will be received by the Subcommittee from the interested public following the appearances of the executive branch witnesses.

The tariff and trade bills on which testimony will be received are listed below: [1]

H.R. 4428 (Mr. Gephardt): Relating to the duty-free entry of certain scientific equipment imported for the use of the Ellis Fischel State Cancer Hospital, Columbia, Missouri.

H.R. 6093 (Mr. Gibbons): To implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, which protocol was opened for signature on March 1, 1977, and for other purposes.

H.R. 6278 (Mr. Holland): To apply duty-free treatment to tetra amino biphenyl.

H.R. 6280 (Mr. Jenkins): To amend the International Coffee Agreement Act of 1980.

H.R. 6281 (Mr. Jenkins): To amend the Act implementing the International Sugar Agreement, 1977.

H.R. 6360 (Mr. Moore): To increase the column 1 rate of duty on melamine.

It will be necessary for witnesses to summarize briefly their written statements. The full statement will be included in the printed record. Also, in lieu of a personal appearance, any interested person or organization may file a written statement for inclusion in the printed record.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Requests to be heard must be received by telephone to Harriett Lawler [telephone (202) 225-3627] by close of business on Tuesday, September 14. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

[1] H.R. 4221 was later added.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the full Committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representatives may be reached);
2. A list of any clients or persons, or any organization for whom the witness appears; and
3. A topical outline or summary of the comments and recommendations in the full statement.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit at least six (6) copies of their statement by the close of business, Thursday, September 30, to John J. Salmon, Chief Counsel, Committee on Ways and and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearings wish to have their statements distributed to the press and the interested public, they may submit 50 additional copies for this purpose if provided to the Committee during the course of the public hearings.

Chairman GIBBONS. Good morning, ladies and gentlemen. This is a meeting of the Ways and Means Subcommittee on Trade. Today the subcommittee is receiving testimony on seven miscellaneous tariff and trade bills. Immediately following the hearing the subcommittee will meet in executive session to continue the markup of H.R. 6773, the Reciprocal Trade and Investment Act of 1982, and H.R. 6842, the trade worker's adjustment assistance improvement.

We will begin the hearing today with the views of the administration on all seven bills, followed by our colleagues Messrs. Hance and Moore, and other witnesses from the private sector who have requested to appear. If the representatives of the administration will please introduce themselves, we will begin the first bill.

Let me say, before we go too far, that the Chair must leave here at 5 minutes to 12, and I am hoping we can make as much progress as possible this morning. And if we cannot finish, we will resume as quickly after as we can. I may have to turn part of the hearing over to someone else to chair, because I am a conferee on a tax bill and we meet at 1, and then probably for the rest of the afternoon for the Senate concurring.

So let us just plow right ahead.

Mr. BAILEY. I am sure the chairman will be looking out for UCX at that time.

Chairman GIBBONS. Yes, sir.

Mr. BAILEY. I am sure UCX will come up and I know the chairman will do a great job.

Chairman GIBBONS. If representatives of the administration will please introduce themselves, we will begin with the first bill, H.R. 6278, introduced by Mr. Holland, providing duty-free treatment of tetra amino biphenyl. Gentlemen, you may introduce yourselves and proceed.

STATEMENT OF BRUCE MILLER, DIRECTOR, CONSUMER GOODS AND AUTOMOTIVE INDUSTRY DIVISION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. MILLER. Thank you, Mr. Chairman. I am Bruce Miller, Director of Consumer Goods and Automotive Industries Division, International Trade Administration, U.S. Department of Commerce.

We are pleased to have the opportunity to present the administration's views here this morning on these bills.

On H.R. 6278, the administration has no objection to the enactment of the duty-free treatment. There is no domestic commercial source of this chemical material, which is an essential raw material for the manufacture of a new fiber known as PBI. There is also no domestic production of a readily available substitute.

We believe that the high capital requirements needed to begin the production of the highly specialized compound and the very small market demand for this chemical appear to make production of the chemical unprofitable for U.S. manufacturers. Duty-free entry of tetra amino biphenyl would allow U.S. manufacturers of the fiber, PBI, to decrease their cost of production.

Chairman GIBBONS. All right. And we have—it has been passed out by staff here—a statement by Celanese to the House Ways and Means Committee supporting the duty-free treatment of importation of TAB. They will be testifying later, and without objection, we will make their statement a part of the record at that point.

Are there any comments or questions from the members about this bill, H.R. 6278 by Mr. Holland?

[No response.]

Chairman GIBBONS. Without objection, then, we will proceed on to the next bill. The next bill—Are we waiting for Mr. Moore?

OK, let us take up H.R. 4428 by Mr. Gephardt. Excuse me, let us go back and take up H.R. 6278. We have gotten that one. H.R. 6360.

Mr. MILLER. Thank you, Mr. Chairman.

H.R. 6360 would increase the current column 1 rate of duty on melamine from 4.7 percent to 11 percent ad valorem. The administration is opposed to enactment of this legislation.

Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. We believe this procedure, which involves a thorough investigation by the U.S. International Trade Commission, is an appropriate recourse for the domestic industry if it feels it is faced with injurious import competition. We note further that only through this process can proper attention be given to the competitive situation with respect to products included in the coverage of H.R. 6360.

In addition, the tariff item 425.10 is subject to concessions made by the United States under the GATT and is bound against increase. Any increase in the duties on these products would render this country subject to claim for compensation or to retaliation by affected countries, thus disadvantaging other industries. We believe it is inappropriate to jeopardize our trading interests in situations where injury has not been demonstrated.

Mr. PEASE. Mr. Chairman?

Chairman GIBBONS. Yes, sir. Mr. Pease.

Mr. PEASE. Can we take that statement to mean the administration is opposed to this bill?

Mr. MILLER. Yes, sir.

Chairman GIBBONS. Well, let us take up then H.R. 4221.

Mr. MILLER. Thank you, Mr. Chairman.

At this time the administration does not have a position on H.R. 4221. The administration is reviewing the proposed legislation and we will submit our views in writing at the earliest possible time.

Chairman GIBBONS. Could you briefly describe to us that bill so we will have it in the record?

Mr. MILLER. Yes; H.R. 4221 would reclassify certain items of corduroy that have been subject to Customs Court decisions. The effect of the bill is to reestablish the tariff rates that were in effect prior to the Customs Court decisions.

Chairman GIBBONS. Do you have any idea when you could give us a position, how long it would take?

Mr. MILLER. Mr. Chairman, we believe that might be possible in about 2 weeks.

Chairman GIBBONS. Thank you very much.

Any questions? Mr. Jenkins?

Mr. JENKINS. Mr. Chairman, on this bill, I have introduced dealing with corduroy, the issue is primarily the definition of cut or uncut corduroy. I had received some information earlier, not formal but informal information, that the administration had no opposition to the bill.

I would like very much, if we could, to study and make a report back to the committee so that we would know where the administration actually stands on this legislation.

Mr. MILLER. We appreciate your interest, Mr. Jenkins, and we are actively looking at the issues raised by the legislation.

Mr. JENKINS. Thank you.

Chairman GIBBONS. Any other questions?

[No response.]

Chairman GIBBONS. Let us then go next to Mr. Ron Gerdes, Assistant Chief Counsel, Administration and Legislation, U.S. Customs Service. Let us hear from him on H.R. 4428.

STATEMENT OF RONALD W. GERDES, ASSISTANT CHIEF COUNSEL, ADMINISTRATION AND LEGISLATION, U.S. CUSTOMS SERVICE

Mr. GERDES. Thank you, Mr. Chairman.

This bill involves the importation, two separate entries, of scientific equipment by a cancer hospital in Missouri. The hospital applied for and received all of the necessary documentation for duty-free entry for these goods. However, for reasons which are not altogether clear to me, this documentation was never filed at the time the entry was made.

After a period of time, the entries were eventually liquidated, and unfortunately the protests were not filed in a timely manner. So the Customs Service was without authority to refund the duties. This matter has been subject to much discussion and many letters of inquiry. As you are aware we generally oppose private relief

bills. Because of the circumstances in this particular instance the Treasury Department has decided that it will not oppose this particular bill.

Chairman GIBBONS. Any other comments or questions from the subcommittee?

[No response.]

Chairman GIBBONS. Thank you very much.

Mr. Paul O'Day, Deputy Assistant Secretary for Trade Development, U.S. Department of Commerce, on H.R. 6093.

STATEMENT OF PAUL O'DAY, DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT, ACCOMPANIED BY RICHARD M. SEPPA, DIRECTOR, STATUTORY IMPORT PROGRAMS STAFF, U.S. DEPARTMENT OF COMMERCE

Mr. O'DAY. Thank you, Mr. Chairman. I have with me Mr. Richard Seppa, who is the director of the Statutory Import Program Staff in Commerce for any technical questions that may come up.

Mr. Chairman, with your permission I will submit my statement for the record and briefly summarize it.

Chairman GIBBONS. Your statement will be placed in the record.

Mr. O'DAY. We appreciate this opportunity to testify before the committee on H.R. 6093, which is a bill to implement the Nairobi Protocol to the Florence Agreement. The basic Florence Agreement negotiated in 1950 provides principally for exemption of duties for imports of educational, scientific, and cultural materials. The Nairobi Protocol amends and expands the coverage of the basic agreement to include additional categories of materials, basically to take into account technological changes since 1950.

In essence, the bill would do three things:

One, require the immediate granting of temporary duty-free treatment for articles specifically designed for the use of physically or mentally handicapped persons other than the blind.

Two, authorize the President to grant temporary duty-free treatment for any other articles covered by the bill for a temporary period not to exceed 2½ years from the date of enactment.

And three, provide a safeguard mechanism for U.S. producers of products for the handicapped and tools for scientific instruments, which would allow strict adherence to the provisions of the protocol as a remedy to any significant adverse impact from imports.

In addition, the legislation provides that permanent duty-free treatment may be granted if the President finds within 2½ years that our trading partners are acting in an equivalent manner.

We would, if this is enacted, implement provisionally five of the nine annexes in the Nairobi Protocol: Annex A on books and periodicals; annex B on works of art; annex C on audiovisual materials; annex D on scientific instruments and related tools; and annex E on articles for the blind and otherwise handicapped individuals.

We would not adhere to the other annexes, on the conclusion that they would not be in the interest of U.S. industry.

In closing, Mr. Chairman, members of the committee, I would like to state that we believe that the legislation provides overall trade benefits for U.S. industry and therefore the administration supports the enactment of H.R. 6093.

[The prepared statement follows:]

STATEMENT OF PAUL T. O'DAY, DEPUTY ASSISTANT SECRETARY FOR TRADE DEVELOPMENT, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman and members of the subcommittee: I appreciate this opportunity to testify before the subcommittee on H.R. 6093, a bill "To Implement the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials."

The basic Florence agreement, negotiated in 1950, provides principally for exemption of duties for imports of educational, scientific, and cultural materials. The Nairobi protocol amends and expands the coverage of the basic agreement to include additional categories and materials to take into account technological changes since 1950.

Enactment of H.R. 6093 would:

1. Require the immediate granting of temporary duty-free treatment for articles specifically designed for the use of physically or mentally handicapped persons other than the blind;

2. Authorize the President to grant temporary duty-free treatment for any other articles covered by the bill for a temporary period not to exceed 2½ years from date of enactment; and

3. Provide a "safeguard" mechanism for U.S. producers of products for the handicapped which allows strict adherence to the provisions of the protocol as a remedy to significant adverse impact from imports.

In addition, the legislation provides that permanent duty-free treatment may be granted, if the President finds within the 2½ year period that our trading partners are acting in an equivalent manner, taking into account their level of obligations and method of implementation, and the benefits for U.S. consumers and exporters.

H.R. 6093 would enable the United States to implement the provisions of the Nairobi Protocol temporarily prior to formal U.S. ratification, and permanently after ratification. U.S. ratification will take place only after the advice and consent of the Senate is received and after a Presidental determination that the United States is receiving equitable treatment by other countries under the terms of the protocol.

The major benefits to be derived from the protocol are contained in the provisions exempting from customs duty those materials listed in the nine annexes, some of which are mandatory and some optional. If H.R. 6093 is enacted, the United States would implement provisionally five of the nine annexes in the Nairobi Protocol:

Annex A—Books and Periodicals.

Annex B—Works of Art.

Annex C—Audio Visual Materials.

Annex D—Scientific Instruments and Related Tools.

Annex E—Articles for the Blind and Otherwise Handicapped Individuals.

The United States would not propose to adhere to Annexes F, G, and H, covering sports equipment, musical instruments and equipment, and materials and machines used in the production of books, respectively.

The administration believes that widespread adoption of the protocol could result in significant new trade opportunities for U.S. exporters. The liberal duty-free treatment provisions in H.R. 6093 can be justified on a permanent basis only if there is generally equivalent application of the protocol by other major trading nations.

We believe that the authority to grant, or withhold, duty-free treatment during an initial 2½ year period for the majority of the articles under the protocol will provide effective incentives to induce equitable implementation of the protocol by other nations. It will permit early U.S. implementation of the protocol, but only on a temporary basis to insure that the United States will not become obligated under the protocol to grant duty-free treatment on a permanent basis until adequate treatment for U.S. exports is assured. Formal ratification, and hence U.S. obligations under the protocol will come only when the President has determined that the United States is receiving equitable treatment from other countries.

In closing, I would like to state that we believe that this legislation provides overall trade benefits for U.S. industry. Therefore, the administration supports the enactment of H.R. 6093.

Chairman GIBBONS. Would you tell the committee just briefly what the Nairobi Convention is and the Florence Agreement and the protocol?

Mr. O'DAY. Yes, sir. Since the original Florence Agreement, we have had a number of technological changes in the basic areas covered——

Chairman GIBBONS. What was the original Florence Agreement? Let us go back to that.

Mr. O'DAY. Let me ask Mr. Seppa, since he works with that every day, to summarize the Florence Agreement and then we can take the Nairobi changes, if I may.

Chairman GIBBONS. All right.

Mr. SEPPA. The basic agreement, Mr. Chairman, was adopted in 1950. It provides for the duty-free entry of articles covered by five of eight annexes that the protocol relates to. The protocol simply extends the coverage to include additional classes of books and publications. It extends the coverage for new types of audio and visual materials that have come on the scene since 1950.

It provides for additional entry of tools and replacement parts for scientific instruments, which are already covered by the agreement. And in terms of articles for the handicapped, the basic agreement covers articles for the blind. The protocol extends the coverage to articles for handicapped individuals other than the blind.

Chairman GIBBONS. Would you run over for me again those items that are covered by the agreement and the protocol in broad terms?

Mr. SEPPA. There are five basic annexes to the agreement. Annex A relates to books, publications and documents. Annex B relates to works of art and collector's pieces. Annex C relates to audio and visual materials. Annex D, in the basic agreement relates to scientific instruments, provided equivalent instruments are not being manufactured in the country of importation. Annex E of the basic agreement relates to duty-free entry of articles for the blind.

What the protocol does is list——

Chairman GIBBONS. That means all of those items can be imported into any of the countries without any duty, is that right?

Mr. SEPPA. That is correct, sir.

Chairman GIBBONS. All right. Go ahead.

Mr. SEPPA. In annex A, books and publications, there are three specific additional changes that affect the United States: (1) relatively insignificant trade items, catalogues of films, recordings, and visual and auditory materials, are being added; (2) architectural and engineering plans and drawings are being added as a result of the protocol; and (3) so-called loose illustrations and printed pages are being added.

There are no changes in terms of U.S. practices for works of art and collectors pieces covered by annex B.

In annex C, the protocol identifies additional articles for duty-free treatment, largely ones that have developed since the 1950's when the original agreement was developed. For example, there have been significant computer developments, magnetic tape, and similar kinds of articles, which were not available in the 1950's.

In annex C under the basic agreement there is a requirement that to enter duty-free audio and visual materials must be of a scientific, educational, and cultural character. Annex C-1 of this protocol, which the United States intends to adopt, eliminates the end-use requirements so that any motion picture, for example, any vid-

eotape, any record, any cassette, which previously had to be of a scientific, educational, and cultural character, can now enter duty free under the protocol. This puts audio and visual materials on the same basis that now applies to books under the basic agreement. All books currently enter duty free and there is no end-use requirement.

In annex D, the scientific equipment, there is a very minor addition under the protocol which allows tools for the repair of scientific instruments which have entered under the basic agreement to enter duty free.

One of the most important areas, I think, relates to annex E, articles for handicapped individuals other than the blind. Previously, only the blind benefited from the duty-free entry privilege under the basic agreement. Now it extends to mentally and physically handicapped individuals as well. For example, prosthetic devices, orthotic devices, artificial limbs and material of this type would enter duty free under the protocol.

Chairman GIBBONS. Does the importation of films include commercial film?

Mr. SEPPA. Yes, it does.

Chairman GIBBONS. Ones for commercial use, distribution, and things of that sort?

Mr. SEPPA. Yes; any film will now be permitted to enter the United States duty free. It does not have to be of an educational, scientific, and cultural character.

Chairman GIBBONS. Do we have any objections from the industry on that that you have heard of?

Mr. SEPPA. The motion picture industry is strongly supportive of it. One of the reasons that the protocol was adopted was strong pressure from U.S. book and publishing interests, motion picture interests, to include all film, to put it on a similar footing that currently applies to books.

Chairman GIBBONS. What other countries have adopted the protocol?

Mr. SEPPA. There are nine countries that currently have adopted the protocol.

[Pause.]

Mr. SEPPA. The nine are Barbados, the Vatican, Iraq, Ireland, Egypt, Italy, the Netherlands, New Zealand, and Yugoslavia.

Chairman GIBBONS. Which other countries have begun to implement these?

Mr. SEPPA. The European Economic Community has been implementing it on a provisional basis since January of 1980. Whether or not any other countries are actually implementing it, I do not have that information. The way the protocol reads, you are required to begin formally implementing it 6 months after you deposit your instrument of ratification. I believe most of these countries ratified in 1981. So I would expect that all of these other countries I have mentioned to you are implementing the protocol currently.

Mr. O'DAY. Mr. Chairman, I should add, the United Kingdom adopted the protocol in July, and in our work with the State Department on this, that Department will continue to work with each of the countries in the European Community and elsewhere to

urge adoption of the protocol after we lead the way with our temporary implementation of it should this legislation be enacted.

Chairman GIBBONS. All right. Would you please clarify the conditional ratification procedure?

Mr. O'DAY. Yes, sir; the intent of this legislation is to give us an opportunity over the next 2½ years to watch the actual implementation of the legislation by watching the imports, taking any comments from firms and industries that feel they have any problems with the imports coming in under the temporary implementation of the legislation, and then reaching a finding some time during the 2½-year period as to whether it should be made permanent.

We also have a safeguard mechanism in place for the items for the handicapped and tools for scientific instruments where U.S. treatment of imports goes beyond the literal terms of the protocol. This mechanism will allow us to limit those imports to approved institutions and to condition duty-free entry on a finding that equivalent articles are not manufactured domestically should a U.S. firm show significant adverse effects as a result of imports under the protocol. If U.S. manufacturers believe they are being injured by imports of these products under the protocol, we will have a mechanism in place, administered by the USTR, similar to the GSP review process, that will take petitions and review them in the Government to decide whether or not any actions should be taken.

Chairman GIBBONS. I just want to ask you again for a clarification. Do you know of any opposition to any of this in the United States?

Mr. O'DAY. No, sir; all of the industries that we have worked with in each of the areas have supported this legislation. We have a list of those who are formally on record with us as supporting the adoption of the protocol. It includes the American Library Association, the Recording Industry Association of America, the Motion Picture Association of America, the American National Standards Committee, the Association of American Publishers, the National Micrographics Association, the Association of American University Presses, and the American Foundation for the Blind.

Chairman GIBBONS. Were there other questions by members? Mr. Jenkins?

Mr. JENKINS. Mr. Chairman, I think you have answered it, but I noticed, recordings, and I assume that will be records or tapes?

Mr. O'DAY. Yes, sir.

Mr. JENKINS. And so forth. The domestic industry is supporting this?

Mr. O'DAY. Yes, sir; we have a very large trade balance in our favor in this sector. The industry realizes that, should the Nairobi protocol be adopted widely across the world, that this would be to their advantage. They also believe that the free flow of trade in this area is very much in the interest of the United States and they support it very strongly.

Mr. JENKINS. Is Japan a part of this protocol?

Mr. O'DAY. No, sir; we have been working with Japan to encourage that country to sign this protocol. We are hopeful that once we are formally on record with this temporary implementation of it,

that it will raise the odds that Japan might come in and join. But at the moment, Japan is not a signatory.

Mr. JENKINS. Are there duties now on recordings or anything going into Japan?

Mr. O'DAY. I do not have the answer to that. Mr. Seppa, do you have that?

Mr. SEPPA. Would you repeat the question, please?

Mr. JENKINS. Are there tariffs on any of these items going into Japan now?

Mr. SEPPA. Yes; I would expect that there are tariffs on most of these items. Japan is a party to the basic agreement, so they are committed to allowing all of the items covered by the basic agreement in duty-free. With respect to some of the additions to the agreement, Japan does have duties.

Mr. JENKINS. What are they objecting to, do you know which admissions?

Mr. SEPPA. I do not believe we know at this particular point exactly what their concerns are.

Mr. O'DAY. They tend, Mr. Jenkins, to be very slow about these things. I ought to point out that, of course, the market for English language materials in Japan is a very limited one. The basic benefits in this action would be with countries that have large English-speaking populations, and that would be the trade opportunity for these industries in the United States.

Mr. JENKINS. I cannot understand why they would object, then. That is what I was getting at: If there is no market there, why would they object?

Mr. O'DAY. We share that view and, as I say, we are doing what we can to work with Japan to get them to come around to the view that this is very much in the interest of any country that would like to have a free flow of cultural and educational materials across their borders.

Chairman GIBBONS. Any other questions by the members?

[No response.]

Chairman GIBBONS. Let me ask you, is the protocol affected by U.S. copyright laws?

Mr. O'DAY. No, sir; our copyright laws remain untouched by this, as do any other aspects of domestic legislation that might be in any way in conflict with the protocol. There would be no effect, for example, on the manufacturing clause.

Chairman GIBBONS. Thank you very much.

Mr. O'DAY. Thank you, Mr. Chairman, members of the committee.

Chairman GIBBONS. We have Mr. Don Nelson, who is Assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy, on H.R. 6280 and H.R. 6281. You may proceed.

STATEMENT OF DON NELSON, ASSISTANT U.S. TRADE REPRESENTATIVE FOR AGRICULTURAL AFFAIRS AND COMMODITY POLICY, ACCOMPANIED BY LEO MAYER, ASSOCIATE ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE, DEPARTMENT OF AGRICULTURE; AND MICHAEL CALINGAERT, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL RESOURCES AND FOOD POLICY, DEPARTMENT OF STATE

Mr. NELSON. Thank you, Mr. Chairman. I have with me today Mr. Leo Mayer who is the Associate Administrator of the Foreign Agricultural Service, and Michael Calingaert Deputy Assistant Secretary of State.

We have prepared a statement for the record. In the interest of time, if I may just be permitted to summarize that and then we will be very willing to answer any questions the committee might have.

Chairman GIBBONS. All right, fine; go right ahead.

Mr. NELSON. I am here today to speak on behalf of the administration in support of H.R. 6280 and 6281. Both are bills to extend the life of the legislation that allows the United States to implement the International Sugar Agreement and the International Coffee Agreement. H.R. 6280 will enable the United States to continue to fulfill its obligations under the coffee agreement for an additional 1-year period. Specifically, the legislation allows the President to regulate the entry of coffee into the United States by not allowing coffee from ICA members which is not accompanied by the proper documentation to enter the United States.

The President is also authorized to restrict coffee imported into the United States from countries which are not members of the ICA. The United States, along with all other ICA members, is participating in the negotiations for a new agreement, one that will be an improvement over the current ICA. Assuming these negotiations are successfully concluded this September, the United States will agree to continue to participate in the ICA throughout the extension year. This extension year will give us and other ICA members time to complete parliamentary procedures needed to bring a new agreement into force.

For the United States, this will entail ratification of a new treaty and congressional passage of new implementing legislation. The National Coffee Association, which represents a large segment of the U.S. industry, has indicated that as long as the Government feels that the ICA is in the best interest of the United States it can accept and support the agreement.

Various segments of the industry have cited the need for market stability and believe that the ICA is the best means of achieving this objective. I would like to reiterate the need to take quick action on this bill. It is imperative that we have new legislation in place by October 1, 1982 in order to be able to comply with our treaty obligation. Our failure to do so could disrupt the world coffee market significantly, to the detriment of producers and consumers, and of our relations with the coffee producing countries of the world.

H.R. 6281 will extend the legislation implementing the International Sugar Agreement for 2 years, until December 31, 1984. This

legislation gives the President authority to continue to assure that imports of sugar into the United States are accompanied by the proper documentation and that import restrictions on non-ISO members are enforced.

The 2-year extension period will allow time for renegotiation of the ISA, as well as for completion of parliamentary procedures needed to bring it into force. While we recognize that, owing to the nonmembership of the European community it has proved difficult to operate the economic provisions of the ISA, the administration supports our continued participation in the agreement. The 2-year extension will allow time for continued consultations between the ISO and the European Community. These consultations are meant to pave the way for EC accession to the current agreement or participation in a new agreement.

Despite its shaky performance, the ISA has been marginally successful in reducing price volatility in the face of conditions of both substantial surplus and shortage. It would be worthwhile to take note of recent actions taken by our own Government in response to current instability in the world sugar economy.

In May the President made a decision to impose temporary quotas on sugar imported into the United States. This action was necessitated by the declining world price with duties and fees alone. As a result, we have been asked by ISA exporting members to explain our quota program, and we have carried out useful discussions to this effect in London.

We believe it is also important that we reaffirm our commitment to working in the ISA to help address the problems of both the world sugar economy in general as well as those of individual sugar exporting countries in Latin America and other regions of the world where we have an important stake in economic and social stability.

We urge that H.R. 6281 be passed quickly. Such action would positively signal our continued support of multilateral efforts in this direction. The ISA will not increase U.S. consumer prices for sugar.

On the other hand, our failure to extend implementing legislation, by preventing the United States from meeting our ISA treaty obligations under the agreement, would tend to put further downward pressure on the aleady troubled world market for sugar and could result in the imposition of even more restrictive measures on sugar imports.

That concludes my summary, Mr. Chairman, and we would be pleased to receive any comments or questions that you and the committee might have.

[The prepared statement follows:]

STATEMENT OF DONALD M. NELSON, ASSISTANT UNITED STATES TRADE REPRESENTATIVE

I am Donald Nelson, Assistant USTR for Agricultural Affairs and Commodity Policy. I am here to speak on behalf of the administration in support of H.R. 6280 and H.R. 6281. Both are bills to extend the life of the legislation that allows the United States to implement the international coffee agreement (ICA) and international sugar agreement (ISA).

The ICA was due to expire on September 30, 1982. A resolution, supported by the United States, was passed by the international coffee organization calling for an ex-

tension of the agreement for one year to September 30, 1983. The extension is conditioned by a proviso that proposals for modification to the agreement beyond October 1, 1983, shall be decided upon prior to September 17, 1982. This proviso results from the consumer interest in improving the ICA through modifications of the economic provisions. In order to continue to carry out its obligations under the ICA during the one-year extension period (September 30, 1982, to September 30, 1983), the administration is seeking passage of H.R. 6280.

Negotiations for modification of the ICA are now underway. In negotiating modifications of the ICA, the United States has sought to improve the system for distributing the total quota among exporting members. Another important U.S. objective is inclusion in a new agreement of a provision that would prohibit exporters from undertaking collusive marketing activities outside the terms of the coffee agreement. Assuming these negotiations are successfully concluded by mid-september, the United States will agree to the extension year. The extension year will give the United States and other ICA members time to complete parliamentary procedures needed to bring a new agreement into force. For the United States, this will mean Senate ratification of a new treaty and congressional passage of new implementing legislation.

The implementing legislation which we seek enables the United States to continue to fulfill its obligations under the ICA. Specifically, this means that the President is authorized to regulate the entry of coffee into the United States by not allowing coffee from ICA members which is not accompanied by the proper documentation to enter the United States. The President is also authorized to restrict coffee imported into the United States from countries which are not members of the ICA.

The current ICA entered into force on October 1, 1976. All major producing countries and most major consuming countries are members. The United States has participated in a series of coffee agreements dating back to 1962.

The agreement seeks to assure a reasonable balance between world demand and supply of coffee and to assure fair prices to consumers and remunerative prices to producers. The agreement relies on export quotas to stabilize prices within an annually negotiated price range. Quotas are enforced by importing members by controls on imports.

Quotas are adjusted at specified levels within the current price range of $1.15 to $1.45 per pound. Quotas are tightened—thus reducing the available world supply of coffee—as prices fall. At the lower end of the range, the most restrictive quota is in effect. If prices rise to the upper end of the range, quotas are gradually increased. Quotas are removed (and ICA members may export without restriction) if prices exceed $1.50 per pound. When quotas are in effect, the world quota is divided among all the exporting members of the ICA which currently includes almost 100 percent of the coffee producing countries.

Between 1976 and mid-1980, the economic provisions of the agreement remained suspended. This was because of high coffee prices, which resulted from frosts in Brazil and supply disruptions in other exporting countries, and because of concerted price support activities by eight Latin American producers (known as the "Bogota Group" or Pan Cafe). The United States refused to negotiate price and quota provisions until this group agreed to cease any further market actions and to liquidate its holdings of physical coffees and futures contracts. Faced with a firm U.S. position and declining prices in late 1980, members of Pan Cafe agreed to the U.S. conditions. This cleared the way for the reintroduction of quotas in October 1980.

Since the negotiation and implementation of economic provisions, coffee prices have generally remained within, or slightly below, the established price range, indicating that the agreement was providing some stability to the coffee market.

We believe the ICA provides benefits to importing members by promoting long-term supply availability through the moderation of price fluctuations. The quotas force exporting members to stock coffee. Also, the system used in the agreement to distribute quotas among exporting members rewards those countries that store coffee. These additional supplies would be available for shipment in the event of an abrupt reduction of output which could result, for example, from a Brazilian frost. Furthermore, I would point out that the price range established by the agreement in which quotas operate is well below average coffee prices in the years prior to the imposition of economic provisions under the agreement.

The foreign policy implications of our continued participation in the ICA are obvious. Coffee is a major export earner in many developing countries, with an annual value in world trade of around $12 billion. To the extent that the ICA has helped stabilize prices, it has a very positive economic impact on these countries. As the

largest single importer of coffee, U.S. participation in the ICA is essential to the functioning of the economic provisions of the agreement.

Coffee is a $3 billion industry in the United States. The industry is made up of importers, traders, brokers, roasters, and retailers. The National Coffee Association, which represents a large segment of the U.S. industry, has indicated that as long as the Government believes the ICA is in the best interest of the United States, it can accept the agreement. Various segments of the industry have cited the need for market stability and believe that the ICA is the best means of achieving this objective.

I would like to reiterate the need to take quick action on this bill. As mentioned earlier, our current legislation expires September 30 of this year. Thus, it is imperative that we have new legislation in place by October 1, 1982, in order to be able to comply with our treaty obligations. Our failure to do so could disrupt the world coffee market significantly to the detriment of both producers and consumers and of our relations with the coffee producing countries of the world.

Again, the legislation we are requesting would enable the United States to continue in the existing agreement for only one more year. Congress will have the opportunity to carefully examine our continued participation in the agreement during that period, assuming we successfully conclude negotiation of a new agreement.

The international sugar agreement (ISA) was originally scheduled to expire on December 31, 1982. A decision was taken by the council of the International Sugar Organization (ISO) to extend the ISA for two years. Thus, the administration is seeking a two-year extension of legislation implementing the sugar agreement. This legislation gives the President authority to control imports of sugar into the United States to assure that imports are accompanied by the proper documentation and that import restrictions on non-ISO members are enforced.

While we recognize that, owing to the non-membership of the EC, it has proved difficult to operate the economic provisions of the ISA, the administration supports our contined participation in the ISA. We support the two-year extension with the understanding that it will allow time for continued consultations between the ISO and the EC. These consultations are meant to pave the way for EC accession to the current agreement or participation in a new agreement.

In 1977 the United States took the position that an effective ISA could improve security of supply for consumers and still allow for reasonable return to U.S. sugar producers. We sought an agreement which would prevent prices from dropping so low as to discourage production and hence trigger scarcities.

The basic objective of the agreement is to stabilize the price of sugar within an agreed range, set initially at 11 to 21 cents per pound. The current range is 13 to 23 cents per pound. The price mechanism provides that when the price indicator is in the lower third of the price range, export quotas are in effect and exporting countries are required to build up obligatory reserve stocks.

The quota mechanism is based upon the assignment to each exporting member of a basic export tonnage (or BET), which has in recent years been determined by export performance, when quotas are in effect, members are required to restrict their exports in accordance with their BET shares. Quotas cuts generally do not exceed 15 percent, although when prices are below the price range, exports may be cut by an additional 2.5 percent. Exporters who ship in excess of their authorized quota are subject to penalties.

When the price indicator is in the middle third of the price range, there are no quotas in effect and sugar may be freely traded. Near the top of the price range, reserve stocks are required to be released to the market.

Such is the basic outline of the agreement. Compared to previous agreements, the 1977 arrangement is improved in at least three respects. First, the price range was widened to 10 cents per pound from the few cents per pound of earlier agreements. This change was intended to give much greater play to market forces. Except when prices are at the lower end of the range, sugar may be freely traded.

A second change came about because of the insistence of the United States and other importers that quotas must be realistic and based as closely as possible on export performance. Importers also insisted upon an effective shortfall provision. While the initial quota allocation inevitably reflected political bargaining as well as historical performance, the agreement provided for a review and renegotiation of BET's after two years, and if renegotiations did not succeed in establishing an acceptable new BET schedule, BET's are automatically revised in accordance with a formula which gives increasing weight to export performance during the last three years of the agreement.

The third and most important improvement in the agreement was the provision for reserve stocks. It was because of the insistence of the United States that the reserve stock provision in its present form was added to the agreement. When quotas are in effect, exporting members are required to accumulate 2.5 million tons of sugar in special stocks of uncommitted sugar additional to any supplies held for domestic needs or special arrangements. To assist the explorers in holding such stocks, a fund is provided from which exporters receive interest-free loans to be repaid when stocks are released. The fee which finances the fund currently comes from a levy on the trade which currently amounts to $1.65 per metric ton.

As previously stated, the ISA has not worked as well as expected. For the first two years of the agreement, prices were below the lower end price range objective—i.e., below 11 cents per pound. Prices strengthened late in 1979, but by the spring of 1980, prices exceeded the top of the range and remained there until February of 1981 when they began to ease. As we all know, the decline in price continued to where we are today. World sugar prices are well below 10 cents per pound.

While the United States became a provisional member of the agreement at the outset, the United States was unable for some 25 months to comply fully with the agreement. Although this clearly impeded the ability of the ISA to function, it cannot be compared to the problems caused by EC nonparticipation, which has seriously hindered the operation of the agreement.

Using the delay in U.S. ratification as a pretext, the EC ignored repeated requests to discuss with the council possible terms of accession or modifications of its own sugar policy. As a result of its highly protected market, the EC has become one of the world's largest producers of sugar. While it imports a certain quantity of sugar at preferential prices from certain former colonies who are signatories of the Lome Convention, the EC re-exports this sugar and much more of its own heavily subsidized sugar to the world market. We believe that these exports are the single most important factor in the current weakness in the world market. As most of you know, we are currently seeking to reduce the adverse effects of EC subsidy practices both bilaterally as well as in the GATT and the ISA.

Despite its shaky performance, the ISA has been marginally successful in reducing price volatility in the face of conditions of both substantial surplus and shortage. Export quotas in 1978–79 reinforced market trends leading to a balance between world production and consumption earlier than had supplies not been so restrained This led to the recovery of world sugar prices that began late in 1979.

The subsequent release of over 2 million tons of ISA stocks in February 1980 assisted in preventing world sugar prices from rising to even greater heights later in the year. Indeed, the major reason for prices failing to reach the levels experienced in the previous boom of 1974–75, despite a record global production shortfall in the 1979–80 year, was the persistent and ready availability of sugar for prompt shipment. This was in part the result of ISA special stock release and also the incentives offered to member exporters under the agreement's quota provisions to maximize shipments during times when quota restrictions do not apply.

It would be appropriate to take note of recent actions taken by our own Government in response to current instability in the world sugar economy. In May the President made a decision to impose temporary quotas on sugar imported into the United States. This action was necessitated by the declining world price of sugar and our inability to defend our domestic support price with duties and fees alone. USDA demand estimates required a fairly restrictive quota to help remedy the situation. This has caused some hardship for those exporting countries which had anticipated larger shipments to the United States. As a result we have been asked by ISA exporting members to explain our quota program and we have carried out useful discussions to this effect in London. We have in particular noted that the United States intends to administer quotas, for as long as necessary, in conformity with our obligations under the ISA However, we believe it is also important that we reaffirm our commitment to working in the ISA to help address the problems of both the world sugar economy in general as well as those of individual sugar exporting countries in Latin America and other regions of the world where we have an important stake in economic and social stability. We urge that H.R. 6281 be passed quickly. Such action will positively signal our continued support of multilateral efforts in this direction.

I should point out that that portion of the ISA price range in which export quotas operate is substantially below the level at which sugar prices are supported in the United States. Thus, the ISA will not increase U.S. consumer prices for sugar. On the other hand, our failure to extend implementing legislation for the ISA as provided for by H.R. 6281, by preventing us from meeting our treaty obligations, would tend to put further downward pressure on the already troubled world market for

sugar and could result in the imposition of even more restrictive measures on sugar imports.

Chairman GIBBONS. Are you talking about coffee at the same time? You know—I am sorry, I did not realize the microphone was not on.

I want to tell you, I have got to be convinced on these two things and I remain unconvinced. These to me just look like international price-fixing arrangements and I am just against price fixing, nationally, internationally, locally, or any other way. Now why are these things so important, other than for price fixing?

Mr. CALINGAERT. I think there are two reasons, Mr. Chairman. One is, the economic basis, which is essentially why we have joined these agreements.

Chairman GIBBONS. The economic what?

Mr. CALINGAERT. The economic basis is that they are intended to bring some more stability to prices with the view——

Chairman GIBBONS. That means higher prices, does it not?

Mr. CALINGAERT. No, sir.

Chairman GIBBONS. Stability is just another code word for higher prices. Nobody is interested in lower priced stability. They are always interested in high-priced stability.

Mr. CALINGAERT. In both of the agreements, the attempt has been made, and we think it has been successful, to balance the interests of both the producing and the consuming countries, and it should be noted that price volatility has caused problems in both producing and consuming countries.

Chairman GIBBONS. Volatility always causes problems. That is the whole—you all would think we could stabilize the whole world. If we could go to these commodities, why could we not go to everything else in society? Then we would be a completely stable society.

Mr. NELSON. The problem, Mr. Chairman, with the commodities has been the result of price instability on production, and we have certainly seen in both of those that when the price goes to very low levels that there is a disinvestment and a reduction in the production of those commodities, which then results in a higher——

Chairman GIBBONS. Would it not be better in America if we drank less coffee and ate less sugar? Both of these things are not known to be very healthful to the body. We already consume more sugar than anybody else in the world and probably more coffee than anybody else in the world.

I might say parenthetically that we are the most violent nation in the world, too. We have more homicides than any other nation in the world and maybe the two go together. I do not know.

But I cannot see any earthly need for these two conventions, except you all negotiated them years ago and if we got rid of them you all might not have a job. I realize the people that are peddling this stuff around the world want higher prices, but I cannot see any need for it. We do not need any more sugar and we do not need any more coffee.

Mr. CALINGAERT. I would like to add two points if I may, Mr. Chairman. One is, there is a foreign policy aspect to U.S. membership in these agreements which Mr. Nelson has mentioned, these are very important products for a number of countries, including

particularly ones of Central and South America, and they view these agreements as being important to them.

Also, I think it is important to note in terms of the specific legislation in front of the committee, it relates to carrying out the obligations we already have under the existing agreements without prejudging the issue of whether the United States should enter into successor agreements.

Mr. NELSON. Mr. Chairman, we have done studies, as have others, and neither of these agreements has had any measurable effect on prices. In the case of sugar, prices have fluctuated not as much as they would have absent such an agreement. Part of the problem with the sugar agreement is the absence of the European Community from there and the fact that they are such a destabilizing force through the use of their export subsidies.

In the case of coffee, the prices have been within the range of the agreement during the whole time and there is no indication that prices have either been held up or kept down particularly by the operation of the agreement.

Chairman GIBBONS. Then what good is the agreement?

Mr. NELSON. They do have significant foreign policy implications for us.

Chairman GIBBONS. If it has not done anything, why do we have to go through with it again? It is just another encouragement to price fixing. We have a tea agreement we did not join, a cocoa agreement we did not join. We have all other kinds of agreements floating around out there, and I do not know why we need it. If it has not had any impact, why do we have to pass it?

Mr. NELSON. As Mr. Calingaert just said, Mr. Chairman, we may not enter. All we are asking here is for authorization to continue and to evaluate. The President is given the authority to decide whether or not—we are all given the authority to decide whether or not we will participate. If those agreements are drafted in such a way that they are beneficial to the United States, we would probably do so.

Chairman GIBBONS. I am willing to admit that I might be 100 percent wrong in my views on this subject, and I will listen to you some more. But I do not have a whole lot of sympathy for your position. I do not know what the other members of my committee feel on it. I will certainly abide by their views. But go ahead.

Do any of you all want to ask questions about this proposal?

Mr. PEASE. Mr. Chairman, just one.

I note in the prepared testimony of Mr. Nelson the National Coffee Association has indicated that as long as the Government believes the ICA is in the best interest of the United States they can accept the agreement. That comes across as sort of lukewarm. I guess they would really like to oppose it, but they are willing to forego the opposition. Is that accurate? Would they really prefer not to have it?

Mr. CALINGAERT. Mr. Pease, the National Coffee Association has been very much involved in the whole series of international coffee agreements and has sent representatives to all the council meetings and participated in the negotiations. Basically they have been in favor of the agreement. They certainly supported this particular

agreement and have been actively working toward a successor agreement that they would be able to support.

So basically we have had support from them. We have not had opposition.

Mr. PEASE. Thank you.

Chairman GIBBONS. Would the world come to an end if we just experimented for 1 year without this to see what happens?

Mr. NELSON. Well, in the case of coffee, Mr. Chairman, we are allowed to restrict importation of coffee from non-ICA member countries by virtue of this legislation. A number of domestic businesses, including the roasters, the brokers, operators, and importers have concluded business deals that are based on the continuation of this quota regime.

Chairman GIBBONS. With higher prices?

Mr. NELSON. No, sir. Distribution of the types of coffee that are being exported as well. That is one of the major facets of the agreement that is being discussed in London this week. The taste of the American consumer and a number of others has altered over the years toward milder coffees, and we could anticipate an immediate fall in coffee prices as a lot of the world surplus finds a home in the United States. But these low prices will drive out a number of marginal producers, and in the event of a supply disruption in the future there might not be sufficient stocks available to hold back the sharp rise in prices. I think we would return to the truly volatile price fluctuations that we have had in the past.

Mr. CALINGAERT. If I could just add to that, Mr. Chairman, certainly there is a view in the U.S. industry that the agreement does provide, as Mr. Nelson said, an important contribution to insuring continuity of supply over a long period of time. You ask what would happen without the agreement. There was, of course, a time when there was an agreement in effect without the price provisions; however, since 1980, when the price provisions were reinstituted, world coffee prices have been lower than before.

Chairman GIBBONS. All right. Thank you, gentlemen.

Our next witness is Mr. Henson Moore. Mr. Moore, would you want to come forward?

STATEMENT OF HON. W. HENSON MOORE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. MOORE. Mr. Chairman, members of the committee, I thank you for the opportunity to appear before you this morning and for scheduling H.R. 6360 for a hearing today. This is legislation I have introduced in response to a situation which has arisen that has significant adverse effect on my congressional district, and which has large implications on U.S. trade policy. The legislation would raise the current duty on imported melamine, a chemical, from 4.4 to 11 percent. The current European duty on U.S. melamine is 9.8 percent, and coupled with other artificial advantages, which I will discuss in a few minutes, roughly equals 11 percent.

Therefore, this bill that I have introduced corrects the current 42-percent duty differential that is in favor of the EEC. The bill will put the melamine trade considerations in balance and that is

all I am asking be done, that both have the same effective import duty rate.

Most of you who know me when I had a chance to serve on this subcommittee in the last Congress know that I strongly believe in free trade. I am not one to advocate protecting certain products or in any way having domestic protections or protectionist-type barriers. My advocacy of free trade remains unchanged, but the rules by which we compete must neither favor domestic production nor foreign competition.

I seek only to increase the duty on imported melamine to correct the differential that now exists between the European Economic Community which is exporting melamine to the United States and us trying to export our melamine into the EEC. I do not wish to erect protectionist barriers or manipulate the tariff rates to replace the current trade imbalance with another trade imbalance.

I would like to explain the facts which led me to the conclusion to introduce this bill on May 12 of this year. Melamine is a chemical used in the manufacture of various laminates, such as formica, and Melmac Dinnerware. It is also being developed as a highly efficient fertilizer. There are only two American producers of melamine, one of which is located in Louisiana, just across the Mississippi River from my district. This plant is currently shut down because of the decrease in domestic demand brought on in part by lower priced imports. Imported melamine has jumped from 14 million pounds in 1980 to 28 million pounds in 1981. Although the cost of producing melamine is virtually the same in the United States and Europe, various manmade factors make European melamine price competitive in the U.S. market, while U.S. melamine is not price competitive in the European market.

Thus, the EEC producers, because of their several artificial competitive advantages, were able to sell in the United States, but our domestic industry is unable to sell in Europe. These artificial advantages are, No. 1, lower U.S. tariffs. The duty on melamine is 4.4 percent; the EEC duty is 9.8 percent.

No. 2, different methods of calculating duties. In the United States, the rate of duty is applied to the value of the goods at the foreign factory packed and ready for shipment. The EEC rate of duty is applied to the value of the goods at the foreign port including the cost of freight and insurance, obviously, a higher value upon which they place their rate.

No. 3, the magnification of the above two advantages by the value added tax imposed by European countries, although both imported goods and EEC goods are taxed at the same rate, the taxable value of the imported goods is greater since it includes ocean freight, EEC duty, and the VAT tax.

No. 4, low ocean freights on melamine shipped from Europe to the U.S. east coast and gulf coasts corresponding rates from the United States to Europe are approximately 50-percent higher. We cannot address this in this bill, but this is one of the problems we face. Some improvement in this discrepancy has been negotiated recently.

Normal economic trade patterns are being skewed out of shape by the grossly one-sided trade negotiations on melamine. The result is, the U.S. melamine industry is beseiged in its own market be-

cause the U.S. trade negotiators have agreed to open the U.S. market to European melamine, to which I do not disagree, but they have condoned EEC practices which close the European market to U.S. melamine, which I do disagree with.

Undoubtedtly, the U.S. negotiators did not intend through their actions to threaten the existence of a healthy and efficient industry, but that is exactly what has happened. I have asked the committee to address these two problems by increasing the U.S. tariff to 11 percent. This increase would adjust for the EEC method of calculating duties and the duty difference, so essentially the duty would be the same in the United States and the EEC.

The freight rate problem and the VAT problem are not addressed by this change in the U.S. tariff schedule, and will remain as factors in favor of the EEC and against us. I know very well the arguments against raising any U.S. duties, but I believe a grievious error has been made by our negotiators which has the potential to destroy an American industry through no fault of its own. The U.S. melamine industry has tried every administrative solution provided for under current law, but for one reason or another no progress has been made.

We have tried under section 124 authority. Section 201, we were told by the Special Trade Representative not to bother, that it would not be successful. We are in court now, in the International Trade Court, and we have also been before the International Trade Commission unsuccessfully, all of which are not saying that the figures I have given you are untrue. They simply say it makes no significant difference. The people in the industry do not agree with that point.

I have also written a letter to the Special Trade Representative who has indicated that as soon as the section 124 authority is renewed by the Congress, he would take this up in an effort to renegotiate with the EEC to see if something could be done about this, but Mr. Chairman, this has been going on now for well over a year. Meanwhile, the imported melamine is doubling and will probably double again this year, and by the time we finally get around to renegotiating, I am afraid there might not be a domestic melamine industry left, since there were only two producers of it to start with.

Therefore, it is only as a last resort that I have introduced this legislation and come before this committee. We have done everything else that we were supposed to do, and we have gotten nowhere. We are now at the point that all we are asking is that you pass this bill so that you essentially have the same import duties being collected in the EEC as are collected in the United States.

Chairman GIBBONS. Mr. Moore, as always, you have put your case extremely well. I have a great deal of sympathy for your position. Right now we are faced with the administration being opposed to this. I hope we can work with them and remedy these matters. Do other members want to speak to this?

Mr. BAILEY. I would like to comment. First of all, and I think the gentleman knows it, I have the utmost, and I mean that sincerely, respect, admiration, and affection for the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman, and I assure him the feeling is mutual.

Mr. BAILEY. I think the gentleman is an extremely bright and capable legislator, and I think on this particular issue and the way he has presented it, I think he has done an exemplary job. My mind goes back, for example, to the problems of steel, what the gentleman referred to in terms of duty treatments in respective countries and some of the injustices that this country faces, strike me as particularly analogous to situations I face, for example, with chipper knife steel, import ad valorems in Germany and Sweden of 6 percent, in the United States of 6 percent, 10 percent in Japan. But we unilaterally reduced our tariff in the interest of free trade.

I would also say that as we learn in this country to broaden that definition of just what international trade means, and all those little creeping, nagging realities like subsidization and export financing, that we are slowly beginning to recognize in this country, which act as barriers to the free flow of international trade. I am convinced that the consensus will build in this country, probably from the public first, and then slowly filter down to us in Congress. I want to compliment the gentleman. I do not mean it tongue in cheek.

What you have pointed out and outlined here with this bill, I will support you 1,000 percent and do everything I can to help you, I think it is symptomatic of the broader kinds of difficulties that American businessmen are beginning to learn, that when they get out of our sandbox they face problems in other people's sandboxes. Uncle Sam does have to play a role sometime, and we may just have to get tough and carry that Rooseveltian big stick at some time. I just want to compliment the gentleman for his imagination and courage in bringing this issue before us.

Mr. MOORE. I thank the gentleman. As the gentleman knows, this is not something I did very easily, because I view free trade as optimum.

Mr. BAILEY. I do know that.

Mr. MOORE. This is something that is very difficult for me, but I will say this. I do believe somewhere along the line when they were negotiating with the European Community in establishing these tariff rates, there was a tradeoff somewhere along the line. With melamine, we were just given this differential. They figured we were good enough, we could live with it. As the case has turned out now, we cannot now. The Special Trade Representative has indicated to me that he wants to renegotiate, but the problem is that he has no authority now, and by the time we get to the negotiating table, that by the time something is negotiated I don't think this plant is ever going to reopen.

Mr. BAILEY. You are 1,000 percent correct. You have really touched on something. What has happened with trade is that trade barriers, trade laws, trade practices worldwide have simply become a vehicle for exporting American productivity. To the extent they have done that, they have really fed a great deal of economic insufficiency around the world. Anyone who sits back somewhere and gets himself out in orbit and looks down at this planet and sees what has happened with the steel industry around the world is going to find an oversupply representing a very inefficient alloca-

tion of in some cases scarce international resources, which has been fed simply by protectionist attitudes, but certainly not here in the United States of America.

So, it is time we start using our economic strength, intellectual capacity and diplomatic skill to change some of these things, and the gentleman's bill is just one more example of some of those errors in the international trade environment, and I compliment the gentleman.

Chairman GIBBONS. I will save my steel argument. Yes, sir?

Mr. FRENZEL. First of all, I want to say it is nice to have the gentleman from Louisiana back before the Trade Subcommittee. I hope his appearance here will become permanent in the future.

This is something that the United States could negotiate with the EC if we had an extension of section 124 powers. Have you talked to the U.S.T.R. about that?

Mr. MOORE. Yes; I have, Mr. Frenzel. I thank you for your comments. I have written to them and they have agreed that this is something that ought to be negotiated. They would like to do it, but they have no current authority. The problem is that during the time we have not had the authority, the stuff has already doubled coming in, and has already shut down one of the two producers, and by the time we get the authority and get to the negotiating table and hopefully get it negotiated, it will be too late.

Chairman GIBBONS. Would the gentleman yield there?

Mr. FRENZEL. Certainly.

Chairman GIBBONS. The subcommittee has done its job on 124, but we have had some foot voting in the full committee on that subject, and I hope the foot voters will take heart that here is a victim of that foot voting. I will not go any further.

[General laughter.]

Mr. BAILEY. Would the gentleman from Minnesota give me 30 seconds?

Mr. FRENZEL. Of course I would yield to the gentleman from Pennsylvania.

Mr. BAILEY. I was just wondering if to the best knowledge and belief of the gentleman from Minnesota, which are revered, I mean that sincerely, too, Mr. Chairman, from Florida, and the staff, if the so-called, for want of a better word, list that I had constructed for 124 would extend to the gentleman's bill, because I do not believe they would. Therefore, I think, that on the record it is very important to note and for the gentleman's peace of mind, since I am one of his supporters, it is important to note that in no way did any of the amendments proposed by the gentleman from Pennsylvania nor any of his procedural tactics that succeeded in stalling 124—so far, I might add—would have no bearing on the limited authority that we wish to give the administration to negotiate in the 124 area and the gentleman would have been home safe and free and would have had our greatest support in that regard.

I thank the gentleman.

Mr. FRENZEL. I thank the gentleman for his ringing endorsement of 124 authority extension, and I thank the gentleman for his testimony.

Chairman GIBBONS. All right. Let's see.

Mr. MOORE. Mr. Chairman, may I add one additional comment? I know it is late in the session, and I realize the full committee yesterday just passed an omnibus bill with numerous changes in this area, and there may be some thought that this bill might not go anywhere, but we are led to believe that this is not the case; that if this subcommittee could find its way into passing this legislation out of the subcommittee, we have been led to believe that something in fact could happen with this legislation in this Congress, in the other body and perhaps here, and particularly the other body.

So, I would urge the members of the committee have a markup and try to pass this legislation.

Chairman GIBBONS. That is one of the reasons we are having these sessions, the fact that some of these bills are coming back to us from the Senate. We expect to have them in conference, and we want to be fairly well informed about them when we get to them.

Our next witness is Mr. Jay Stone.

STATEMENT OF JAY STONE, WASHINGTON REPRESENTATIVE, MELAMINE CHEMICALS, INC., AND PRESIDENT, JAY STONE & ASSOCIATES

Mr. STONE. Thank you, Mr. Chairman.

I appreciate the opportunity to come before your subcommittee today on behalf of H.R. 6360. I would like to submit the testimony which you all have for the record, and I will briefly summarize.

Mr. GIBBONS. Yes, we will put it in the record.

Mr. STONE. My name is Jay Stone, president of Jay Stone & Associates, located in McLean, Va. I am representing Melamine Chemicals, Inc., which is located in Donaldsonville, La. Melamine Chemicals is a joint venture of First Mississippi Corp. and Ashland Oil Corp.

It is our feeling that the U.S. negotiators made a serious error during the Kennedy round of trade negotiations back in the early 1960's which has had devastating effects on the domestic melamine industry, and it is our hope that Congress can see fit to rectify this mistake. Prior to the Kennedy round, the U.S. duty on imported melamine was 10.5 percent. The EEC rate was 9.8. They started lowering the U.S. duty on a graduated basis in 1963, I believe, down to the present 4.4 percent, and under the MTN negotiations, the Tokyo round, they will further decrease on a graduated basis down to 3.5 percent by 1987, but they are going to leave the European duty at 9.8, which will be about three times as much.

Predictably, this has led to a flood of imported European melamine, and has closed off the European market to U.S. producers. One of the principles of international trade negotiations is that like products produced under like conditions by like countries should have like tariffs. This is obviously not true in the melamine case. We are not sure why or what was in the minds of the negotiators when they negotiated that, but it has caused in the last 2 or 3 years a severe impact on the domestic melamine industry.

There are only two plants, as Congressman Moore pointed out, both of which are in Louisiana and both of which are badly affected by this. Located in the testimony is information about the amounts of imports over the years, how the artificial factors such

as the way the Europeans figure their import duty and the way they apply the value-added tax, and the difference in freight rates, all three of those things combine with the difference in duty to just give them as much as a 14 cents per pound advantage in melamine. So it effectively closes off our market.

The Europeans are coming into the United States and, as we allege in the International Trade Commission, they are illegally dumping melamine at less than fair market value. But all that aside, on the face of it it is obviously unfair that they have such a wide disparity in duties. MCI asks only that they be given a chance to compete in a fair market. This rising tide of imports is not caused by our lack of technology. It is not caused by the inefficiency of the management, and it is not caused by lack of productivity of our workers, and it is not caused by lack of natural resources.

Our plant in Donaldsonville, La., is almost exactly like the plant in the Netherlands that competes with it. The plant in the Netherlands is owned by the Dutch State Mines, which is a state-owned company which manufactures probably 1,000 other products. There is no way for us to tell how much or what it costs them to manufacture melamine, but we do know it is exactly the same technology, because we license it from them. It is the same equipment, same substance, everything exactly the same, but they can undersell us in our market.

We have complained to the ITC and it is currently on appeal, but all of that aside, what we would like to see is that in the short term—I emphasize the short term—that Congress increase the duty to at least what the duty is on the European side, and then if we ever get the 124 authority, let us negotiate them both down. It is just patently unfair, and it is causing a major domestic problem in our domestic plant.

For example, the plant has been shut down for the last 3 months, idling 200 or 300 workers. They just restarted it Congressman, on this plant Monday, and they will build up inventory until about February, and then they will have to shut down again.

Chairman GIBBONS. Let me ask you: What is the basic feedstock for melamine?

Mr. STONE. Natural gas, urea. They use natural gas to make urea, and the urea they use to make melamine.

Chairman GIBBONS. Is there a difference in the price of natural gas in Louisiana?

Mr. STONE. The price that MCI is paying is governed by two separate contracts. I do not have those figures in front of me, but both of them are under the Natural Gas Policy Act that was passed here several years ago. In fact, one of the contracts runs out in a couple of years, so I am sure it will be renegotiated at a much higher rate. The other is fairly high priced gas. We have no idea what the Europeans are paying for their gas, because it is a Dutch-owned company, so we do not know how their gas pricing structure is.

Theoretically, our gas should be cheaper. Therefore, we should have an advantage over them. That is one of the reasons we figured they must be subsidizing the imported melamine.

Chairman GIBBONS. But you do have a case pending on that?

Mr. STONE. Yes, sir.

Chairman GIBBONS. Because there is a lot of natural gas in the North Sea there, and I was just wondering, but it is a natural gas based product?

Mr. STONE. Yes, sir. We use quite a bit of it.

Chairman GIBBONS. Are there any other questions? Mr. Pease.

Mr. PEASE. Yes, Mr. Chairman. I would like to ask Mr. Stone to comment on the third paragraph of his prepared statement. After reciting that the duty has been cut at the U.S. level, 10.5 down to 4.4 percent, whereas the EEC rate has not been cut, you follow with the statement that this predictably has led to a flood of European imported melamine. Why would the Europeans flood us because of that? I understand it might shut off U.S. producers, because obviously the tariff is higher there, but why does it give any particular advantage to European exporters in the U.S. market?

Mr. STONE. Their market in the United States is a relatively fixed market, the best we can tell. There has not been a lot of growth, and by the fact that we are not able to import or export our product over there, it gives them the ability to lock that market up and then come in and invade our market.

Mr. PEASE. Well, how do they have an advantage in invading our market? You say the production costs are the same in either place, essentially, although I think we really ought to have the staff look into the relative costs of natural gas in both places.

Mr. STONE. I wish we could find that out, sir.

Mr. PEASE. I cannot imagine that would be a state secret. You should be able to find that out. But that aside, let us accept for the moment your statement that the costs are the same roughly in Europe and the United States. The difference in duty between 9.8 and 4.4 percent is about 5½ cents. The shipping costs according to your testimony are 6 cents per pound for freight plus 1 cent for packing, plus 1 cent for insurance, so that is 8 cents, so the cost of shipping between Europe and the United States is greater than the difference between the tariffs. Why, if that is the case, would there be, to quote your testimony, a flood of imported European melamine?

Mr. STONE. In this legislation, we are trying to address just one problem. There are four artificial advantages that European imported melamine has. Freight rates is one. The VAT tax, the way they figure their duty, and the fourth is the duty itself. We are working on all three, but we cannot do anything about the VAT tax and the way they figure their duty. We are trying to do something on the freight rates. We just recently completed negotiations or are in the process of negotiating that will lower the freight rate. We are not shipping anything there, because their duty is so high, and we cannot compete with them.

Mr. PEASE. In your testimony, you say that MCI Co. sells 90 percent of its output in the United States. Do you know what the figure is for American Cyanamid?

Mr. STONE. No, sir, I do not. That is not our company so I am not privy to that information.

Mr. PEASE. Well, if MCI sells 90 percent of its output in the United States, it is mainly concerned about the U.S. market.

Mr. STONE. That is not exactly true, sir, because we are only operating at about 50 percent capacity right now, or even less than

that. We could make 70 million pounds a year. We are only doing a little over 30.

Mr. PEASE. Have the exports from MCI out of the United States increased at all in the last 10 years?

Mr. STONE. Our exports outside the United States? The only place we are exporting is to Mexico, I believe.

Mr. PEASE. Has that been true over a period of time?

Mr. STONE. Yes, sir, as far as I know. I would have to check on that.

Mr. PEASE. I do not think, Mr. Stone, we are entirely on the same wavelength. I can understand why MCI, if it is operating at less than capacity, would want to increase its European exports. That makes sense to me. What I do not understand is why imports are making greater penetration in the U.S. market, given the fact that you say the production costs are about the same, and the difference in duty is less than the difference in shipping costs.

Mr. STONE. If we had our duty at 9.8 percent, then they would have to compete with us on the same level in the United States. Now with the low duty they can come in here and undersell us in our domestic market.

Mr. PEASE. How can they undersell you?

Mr. STONE. That is our point with the U.S. Trade Commission; we think they are being subsidized back in Europe.

Mr. PEASE. OK; well, you did mention that before. You think their costs of production are below yours.

Mr. STONE. I think the cost of production is the same, but they have other advantages that cause their price to be lower. The cost of producing it is the same, but it is how you spread that out in a total industrial market.

Mr. PEASE. I can certainly understand that, because steel and automobiles are big in my area, and we are very suspicious that subsidy is going on. Would not the solution to that problem be a subsidy code and complaining to the Commerce Department?

Mr. STONE. We have done that, sir. We are in the process of doing that. We are contemplating filing another action, but it is very costly and time consuming, but as I said before, this is just one avenue for solving the problem.

Mr. PEASE. OK. Thank you very much.

Mr. BAILEY. Mr. Chairman.

Chairman GIBBONS. Yes, Mr. Bailey.

Mr. BAILEY. Mr. Stone, let me say this to you. Whatever you do, do not dare try to hold your breath while the Government starts investigating any of these subsidy provisions. It does not matter what the GATT says. It does not matter what fair play means. It does not matter what legal tools are available. Do not hold your breath. We are going to discuss the whole issue called reciprocity some day in this Congress. Unfortunately, if we would just enforce the laws we have available to us, we would not have to be doing that.

One other thing I would like to comment on is the cost of production. The very difficulty you have or your lawyers have under our laws are that discovery techniques do not give you the kind of teeth to go in there and get those figures. You cannot answer those questions, not because you did not ask them. It is because you do

not have the law available to you to go in there and try to find out the answers to those questions. That is the sad part.

What you are saying is that from an eyeball view, as nearly as you can ascertain, given the same equipment, there is some rough comparison for labor costs and they are high in the Netherlands—benefit packages, et cetera, regardless of who picks them up or what relationship you have between taxation, subsidy, and what government picks up in welfare or health costs, et cetera. The point is that what you are saying is the basic technical means of production, the techology, et cetera, is equal. That is what you are telling me.

Mr. STONE. Yes, sir.

Mr. BAILEY. But what you cannot find out is whether there is a nice, friendly relationship between perhaps one portion of that country and the rest of that company and the government. And what role the government may play in everything from financing transportation to the tax structure that may benefit certain types of investments or give you writeoffs that do not even give you as an American businessman a fair chance, and certainly do not relate to any common ground when describing what free enterprise is supposed to mean on the other side of the Atlantic.

Mr. STONE. That is exactly what I am saying. I could not have said it better.

Mr. BAILEY. I think you have done a fine job of describing it. Thank you.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF MELAMINE CHEMICALS, INC., DONALDSONVILLE, LA., PRESENTED BY JAY STONE, JAY STONE AND ASSOCIATES, INC.

Mr. Chairman, I appreciate the opportunity to come before your subcommittee today to testify on behalf of HR 6360. My name is Jay Stone, President of Jay Stone and Associates, Inc. located in McLean, Virginia. I am representing Melamine Chemicals, Inc. which is located in Donaldsonville, Louisiana. Melamine Chemicals, Inc., (MCI) is a joint venture of First Mississippi Corporation and Ashland Oil Corporation.

The United States negotiators made a serious error during the Kennedy Round of trade negotiations which has had devastating effects on the domestic melamine industry and it is our hope that the Congress can see fit to rectify this mistake. Prior to the Kennedy Round, the U.S. duty on melamine was 10.5 % while the EEC rate was 9.8%. Subsequent cuts lowered our tariff to the present 4.4% and under the MTN negotiations will decrease down to 3.5% by 1987.

The European duty will be left at 9.8%, almost three times as much. This, predictably, has led to a flood of European imported melamine, and has closed off their market to U.S. producers.

One of the principles of international trade negotiations is that like products produced by like countries should have the same tariff rates. This principle has been violated in melamine's case and an American industry is failing fast because of it.

Melamine is a white crystalline substance which is made from urea. It has a wide variety of uses including coatings for appliances, automobiles and building materials, and molded dinnerware. It is produced in the United States by Melamine Chemicals, Inc. (hereinafter "MCI") and American Cyanamid, whose plants are located in Donaldsonville, Louisiana and Fortier, Louisiana, respectively. MCI sells 90 percent of its output in the U.S. Ten percent is exported, largely to Mexico and Canada, and none is exported to Europe.

Melamine is also produced in many other countries including Austria and Holland. At the present time both the Dutch producer, Dutch State Mines (hereinafter "DSM") and the Austrian producer, Chemie Linz, are important competitors in the U.S. market.

Melamine is produced under virtually the same conditions in both Europe and the United States. First, the technology used in Europe is very similar to that used in the U.S. MCI, for example, purchased its plant and knowhow from DSM (the Dutch producer). Second, the melamine produced in Europe is chemically and commercially identical to that produced by MCI in Louisiana. Third, both European producers and MCI have similar access to raw materials and, finally, MCI asserts on information and belief that the costs of production in both Europe and the United States are very similar.

Despite these similarities, the EEC producers, because of their several artificial competitive advantages, are able to sell in the United States, but MCI is unable to sell in Europe. Permit me to briefly point out these artificial advantages.

First, The United States duty on imported mealmine is 4.6% ad valorem, while the EEC tariff on the identical product is 9.8% ad valorem.

Not only is the EEC duty on melamine more than twice the U.S. duty, but EEC producers obtain a further advantage from the manner in which EEC duties are calculated.

This advantage is illustrated by the following example. In the example it is assumed that melamine is produced in both the U.S. and in Holland at 40 cents per pound, and the U.S. melamine is shipped to Holland while the Dutch melamine is shipped over the identical route to the U.S.

U.S. duties are calculated on the value of the goods at the foreign factory packed ready for shipment (F.O.B. value). The U.S. duty is applied to the "transaction value" of the imported merchandise which does not include

> "any costs, charges or expenses incurred for transportation, insurance and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States ...."

[19 U.S.C. S1401a(b)(1), S1401a(b)(4)(A)].

Thus, in our hypothetical example, the U.S. duty on melamine entering the United States would be calculated as follows:

Ex factory price of melamine	40	cents per lb.
Packing cost (bags)	1	cent
U.S. dutiable value	41	cents
U.S. duty rate	4.6%	
U.S. duty	1.89	cents per lb.

EEC duties are calculated on the value of the goods at the foreign port including freight and insurance (C.I.F. value).

Article 8 of the EEC Regulation on the Valuation of Goods for Customs Purposes provides in pertinent part as follows:

> "1. In determining the customs value ..., there shall be added to the price actually paid or payable for imported goods:
>
> . . .
>
> (c) (i) the cost of transport and insurance of the imported goods, and
>
> (ii) loading and handling charges associated with the transport of the imported goods
>
> to the place of introduction of the goods into the customs territory of the Community."

Thus, in our example, EEC duties on the U.S. melamine would be calculated as follows:

Ex factory price of melamine	40	cents per lb.
Packing	1	
Ocean freight	6.0	
Insurance	1	
EEC dutiable value	48	
EEC duty rate	9.8%	
EEC duty	4.70	cents per lb.

The European producer's artificial advantages are further magnified by Value Added Taxes imposed in EEC countries. Although both the imported (U.S.) goods and the domestic (Dutch) goods are taxed at the same rate (18% in Holland), the taxable value of imported goods includes ocean freight and EEC duty. Since EEC goods do not pay either ocean freight or duty, the amount of VAT assessed on imported goods is much higher than that assessed on EEC goods.

The combination of all the artificial advantages enjoyed by the EEC producer gives him a 14 cent per pound (or approximately 30%) price advantage in European markets. The U.S. producer, on the other hand, has no significant price advantage in large segments of the U.S. market.

As a result, despite the fact that the cost of production in the United States is at least as low as the cost in Europe, no U.S. melamine is exported to the EEC market, but as shown by the following table, EEC melamine is being shipped to the United States in large quantities.

U.S. MELAMINE IMPORTS FROM EEC COUNTRIES (IN 1000 POUNDS)

	1976	1977	1978	1979	1980	1981	thru July 1982
Austria	579	2,240	2,987	2,039	470	5,000	1,894
Belgium			117	39	231	120	
France			1,236	231	34		
Italy		263	6,005	1,509		93	
Netherlands		956	14,042	12,940	10,034	17,470	6,359
United Kingdom		80	160	277	120	40	40
West Germany	36	2	390	3,106	1,286	1,704	305
Other	1,799		1,995	601	1,448	4,983	3,781
TOTAL	2,414	3,541	26,932	20,742	13,623	29,410	12,379

The "Other" category includes the recent entry of Brazil, Canada and Kuwait as major importers.

Melamine is a truly international commodity used and produced in many countries. The melamine produced in each country is chemically identical and commercially interchangeable. Trade among countries is brisk.

The following table shows a typical cost calculation:

Competition in European Markets (in U.S. cents per pound)

	U.S. Producer	Dutch Producer	Difference
Ex factory price	40	40	--
Packing	1	1	--
Insurance	1	0	1
Ocean Freight	6.0	0	6.0
Duty	4.7	0	4.7
Landed Cost	52.7	41	11.7
Value Added Tax (18%)	9.49	7.38	2.11
Price	62.19	48.38	13.81

Thus, the VAT actually paid on the U.S. melamine is 2.11 cents per pound more than the VAT paid on Dutch melamine.

One of the most important advantages enjoyed by MCI's European competitors is the low freight rates on melamine shipped from Europe to U.S. East Coast and Gulf Coast ports. The table attached as Exhibit I shows the freight rates charged by various carriers for European melamine being shipped to the U.S., and the similar rates charged for shipping U.S. melamine to Europe. As the table demonstrates, the lowest rate quoted for melamine shipped from Holland to the U.S. Gulf Coast is 3.4 cents per pound. On the other hand, it costs the U.S. producer a minimum of 6.02 cents per pound (i.e. 2.62 cents per pound or 56% more) to ship the identical product in the other direction. Just recently, we have been successful in negotiating some lower freight rates outbound, but since the other barriers exist, at the present time it is not doing us much good.

The United States melamine producers are among the world's most efficient, and on a purely economic basis could compete anywhere with EEC producers. But normal economic trade patterns are being skewed out of shape by the grossly one sided trade negotiations on melamine. The result is that the U.S. melamine industry is beseiged in its own market to European melamine, while condoning EEC practices which close the European market to U.S. melamine. Undoubtedly, the U.S. negotiators did not intend through their actions to threaten the existence of a healthy and efficient industry, but that is the effect of what they have done. Thus, unless prompt action is taken, the successful competitors in the melamine industry will not be the most efficient producers, but the most proficient persuaders.

In order to remedy this negotiating mistake, a two-pronged approach is necessary:

(1) In the short term Congress must increase the United States duty on melamine to at least the same level as the EEC duty, and

(2) In the long term the United States Trade Representative must insure: a) that the U.S. and the EEC duties on melamine are lowered together, and b) that EEC practices relating to the calculation of Customs Value and the Value Added Tax are adjusted so that EEC duty reductions, when made, will be meaningful.

Mr. Chairman, we ask only that we be given a chance to compete in a fair market. The rising tide of imports that threatens us is not caused by the lack of our technology, is not caused by inefficiency of management or lack of productivity of our workers, is not caused by our lack of natural resources. It is caused by an artificial government action that should never have been taken in the first place.

We respectfully ask your help.

EXHIBIT 1

OCEAN COMMON CARRIER FREIGHT RATES

U.S. North Atlantic/Continent

Carrier	Base Rate (U.S. $ per met. ton)		Bunker Fuel Surcharge		Currency Adjustment Surcharge		Total Rate (U.S. $ per met. ton)		Total Rate (cents per pound)	
	inbound	outbound	inbound	outbound	inbound	outbound	inbound	outbound	inbound	outbound
Continental North Atlantic WB Conf.	80.50		29.50		6%		114.83		5.12	
North Atlantic Cont'l Freight Conf.										
Polish Ocean Lines	72.50		29.50		6%		106.35		4.74	
Trans Freight Lines	80.50		29.50		6%		114.83		5.12	
U.S. Gulf/Continent										
Atlantic Cargo Services	61.75	123.25	12.00	17.00	6%	8%	77.45	150.11	3.45	6.70
Bank Line	87.25	120.00	15.00	15.00	-	-	102.25	135.00	4.56	6.02
Continental/U.S. Gulf Freight Association	89.00		13.75		7%		108.98		4.54	
Gulf European Freight Association		125.75		15.00	6%		148.29			6.62
Trans Freight Lines	80.25	123.00	13.75	6.00	7%	11%	99.61	142.53	4.44	6.36

* moves outbound - included for comparison (carrier members are same as carrier members of inbound conference)

Chairman GIBBONS. All right. Thank you.
Our next witness is from Celanese Corp., Mr. Robert L. Stultz.

STATEMENT OF ROBERT L. STULTZ, JR., VICE PRESIDENT, INDUSTRIAL MARKETING, CELANESE FIBERS MARKETING CO.

Mr. STULTZ. Thank you, Mr. Chairman.

My name is Robert L. Stultz. I am vice president of marketing for Celanese Fibers Marketing Co., a division of Celanese Corp. I live in Charlotte, N.C.

Gentlemen, House Resolution 6278 results form the absence of a domestic source of tetra amino biphenyl or TAB, a chemical raw material essential for the production of a new fiber with unique potential for imparting health, environmental, and safety pluses into diverse facets of American life. That fiber, Polybenzimidazole, or PBI, will be produced at a commercial-scale plant now under construction at Rock Hill, S.C., and scheduled to be in operation in late 1982 or early 1983.

On behalf of Celanese Corp. and its need for that facility to have a secure, cost-competitive raw materials source, I urge your support of H.R. 6278 and its provision for the duty-free treatment of TAB.

The unique heat- and chemical-resistant characteristics of PBI fiber make it ideal: As a replacement for asbestos, particularly in health-critical applications; for environmental applications in coal-fired boiler systems; and for such thermal-protective applications as flight suits and garments for firefighters, boilertenders and foundry and refinery workers.

A topical example of the high-performance, people-protective use of this product is that crews of the space shuttle Columbia have worn suits of PBI fiber through the blastoff and reentry sequences of their flights.

I hope that it will be possible for you to respond affirmatively to H.R. 6278. Thank you, gentlemen.

[The prepared statement follows:]

STATEMENT OF CELANESE CORP.

Gentlemen: House Resolution 6278 results from the absence of a domestic source of tetra amino biphenyl, or TAB, a chemical raw material essential for the production of a new fiber with unique potential for injecting health, environmental and safety pluses into diverse facets of American life.

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A topical example of the high-performance, people-protective use of this product is that crews of the space shuttle "Columbia" have worn suits of PBI fiber through the balst-off and re-entry sequences of their flights.

I hope that it will be possible for you to respond as affirmatively to H.R. 6278 as PBI fiber has to NASA's flight suit needs and as it has the vast potential to do in numerous other military and industrial end-uses.

Thank you for your time and your attention.

Chairman GIBBONS. Thank you, sir.

Are there questions?

Mr. BAILEY. Mr. Chairman, just one very brief question on tetra amino biphenyl, or TAB. What are the chemical components? What are the element components?

Mr. STULTZ. Tetra amino biphenyl is an extremely complex organic chemical known as a fine chemical.

Mr. BAILEY. I do not want you to think I am a chemical engineer; I am not. But I do like to read a lot. From what I see, is there any component right there that represents some type of a shortage or some type of material that cannot be mined or produced in the United States?

Mr. STULTZ. The raw materials for the production of TAB are of course available.

Mr. BAILEY. That is my question. Incidentally, do not take my questioning as——

Mr. STULTZ. There are no domestic producers of TAB.

Mr. BAILEY. Nobody is producing it, but the constituent chemicals involved there, from what I read, certainly would not be absent in America.

Mr. STULTZ. That is correct, sir. They would not be absent, but there are no domestic producers of TAB. Celanese over the years has been in discussion with at least 20 potential producers in the United States.

Mr. BAILEY. OK. That was my only question.

Thank you, Mr. Chairman.

Chairman GIBBONS. Before we let you go, there may be a great market for your product here in the Congress. Some of us could need some fireproofing.

Mr. STULTZ. We would like very much to participate in that program, Mr. Chairman.

Chairman GIBBONS. Thank you very much.

Mr. STULTZ. Thank you, sir.

Chairman GIBBONS. Our next witness is on Mr. Jenkins' bill, Morris Bryan, the American Textile Manufacturers Institute, accompanied by Mr. Walter Montgomery, Jr., from Spartanburg, S.C. We welcome you gentlemen here. We are glad to hear from you.

STATEMENT OF MORRIS M. BRYAN, JR., PRESIDENT, JEFFERSON MILLS, INC., JEFFERSON, GA., ACCOMPANIED BY WALTER MONTGOMERY, JR., PRESIDENT, SPARTAN MILLS, SPARTANBURG, S.C., BOTH ON BEHALF OF THE AMERICAN TEXTILE MANUFACTURERS INSTITUTE

Mr. BRYAN. Good morning, sir.

Mr. Chairman, we particularly appreciate the opportunity of appearing before you today. It is a particular pleasure for me personally to do so, because my Congressman is on your right.

Chairman GIBBONS. Yes, sir, I know he is. I think very highly of him, too.

Mr. BRYAN. The Ninth District of Georgia does also, sir. We are very proud of Ed Jenkins.

My name is Morris Bryan. I am a past president of the American Textile Manufacturers Institute and currently a member of its

board of directors. It falls my lot, being the oldest son, to be chief executive officer of the Jefferson Mills in Jefferson, Ga. I am accompanied by Mr. Walter Montgomery, Jr., who is also a member of the ATMI board and chief executive officer of Spartan Mills in Spartanburg. Both of us produce corduroy and that is the subject we would like to talk with you about very briefly here this morning.

ATMI represents about 90 percent of the textile industry, and as you probably know, sir, we employ about 850,000 people all around the United States. We are proud of the fact that 47 percent are women and 23 percent are minorities. This is a record that is substantially above the national average.

We are having a terrible time with imports. Our deficit in our trade this year will set another new record of in excess of $6 billion if it continues at the same rate.

The subject of this morning that we appreciate talking to you about is H.R. 4221. What this does is to clarify a position that the Congress of the United States has taken previously. It clarifies the definition of corduroy. Under a loophole that has developed, it is now possible for importing nations to import to us uncut corduroy at an approximate tariff rate of 10 percent.

When Congress wrote the tariff schedules, they intended that this rate be substantially above that, ranging from 23 to 35 percent, depending on the exact type of corduroy. I have here in front of me a piece of uncut corduroy, and also a piece of finished or cut corduroy. There is a distinct difference in the final appearance. Yet both of them are corduroy.

The reason that this loophole exists is because of a decision by the U.S. Customs Court in 1976 which declared that gray or uncut velveteen and corduroy are not pile fabrics. The judge in this case was aware that the tariff schedules state that an uncut pile fabric should be in the higher tariff duty lines. Nonetheless, in his decision he stated:

> It is fundamental in the absence of contrary legislative intent, the common meaning of a term controls in contriving the tariff statutes and that common meaning is a matter of law to be determined by the court.

In our view, what the judge was saying is that the court can determine where imports are to be classified in the tariff schedule of the United States, unless there is legislative intent which would indicate their classification. Now, whether or not that interpretation is correct, we believe that the U.S. tariff schedule reflects full congressional intent.

Nonetheless, the only remedy available to this industry is to seek a reaffirmation of legislative intent through this bill. The U.S. tariff schedule could not be more clear than in the present headnote of part 4 of schedule 3. That headnote says:

> Pile Fabrics in which the pile was inserted or knotted during the weaving or knitting, whether or not the pile covers the entire surface, and whether the pile is wholly or partly cut or is not cut.

However, this legislation is in our view necessary in order to provide the required legislative intent called for by the courts. And in our view, this bill will provide such intent.

I think I have covered my points, sir, and if there are any questions there are a few more sentences in this statement that I will leave with you. But if you have questions, my colleague and I will try to answer them.

[The prepared statement follows:]

STATEMENT OF MORRIS BRYAN, FOR THE AMERICAN TEXTILE MANUFACTURERS INSTITUTE

Mr. Chairman, we appreciate this opportunity to testify before your Subcommittee on H.R. 4221, a bill which would amend the tariff schedules of the U.S. with respect to corduroy and velveteen. I am Morris Bryan, past president of the American Textile Manufacturers Institute (ATMI) and currently a member of the ATMI Board of Directors. I am also chief executive officer of Jefferson Mills of Jefferson, Georgia. I am accompanied today by Mr. Walter Montgomery, Jr. who is also a member of the ATMI Board of Directors and chief executive officer of Spartan Mills, Spartanburg, South Carolina, and Mr. Doug Bulcao, a member of the ATMI staff. ATMI is the central trade association of the American textile industry representing about 85 percent of the domestic industry for the spinning, weaving, knitting and finishing of cotton, wool, silk and man-made fibers and 90 percent of the cotton system spindles. ATMI provides governmental, economic, international trade, occupational safety and health, statistical and public relations and other services to the U.S. textile industry. This industry represents a major industrial segment of the nation's economy with approximately 850,000 employees which are 47 percent women 23 percent minorities, both of which are well above the national average for all manufacturing.

The textile industry, like many other American industries today, is being beseiged by low-cost imports from overseas. Textile and apparel imports are growing at rates far above the domestic market growth rate. Despite this the U.S. textile industry is continuing to make major investments in new manufacturing equipment and today is the most modern textile industry in the world.

H.R. 4221 would amend the tariff schedules of the U.S. as it deals with corduroy and velveteen. This bill will, we believe, close a loophole in the U.S. tariff schedule which permits the importation of grey or unfinished, uncut corduroy and velveteen to enter into the United States at a duty rate of approximately 10 percent ad valorem, even through the tariff schedules indicate that uncut corduroy imports should face a thirty-eight percent duty. The reason this loophole exists is because of a decision by the U.S. Customs Court in 1976 which declared that grey or uncut velveteen and corduroy are not pile fabrics. The judge in this case was aware that the tariff schedules state that an uncut pile fabric should be classified in the higher duty tariff lines. Nonetheless, in his decision, he stated and I quote, "It is fundamental in the absence of contrary legislative intent, the common meaning of a term controls in contriving the tariff statutes and that common meaning is a matter of law to be determined by the court."

In our view, what the judge was saying is that the court can determine where imports are to be classified in the tariff schedule of the United States, unless there is legislative intent which would indicate their classification. Now whether or not that interpretation is correct, we believe that the U.S. tariff schedule reflects full congressional intent. Nonetheless the only remedy available to this industry is to seek a reaffirmation of legislative intent through this bill. The U.S. tariff schedule could not be more clear than in the present headnote of Part Four of Schedule 3. That headnote says, and I quote, "Pile Fabrics in which the pile was inserted or knotted during the weaving or knitting, whether or not the pile covers the entire surface, and whether the pile is wholly or partly cut or is not cut."

However, this legislation is, in our view, necessary in order to provide the required legislative intent called for by the courts. And in our view, this bill would provide such intent and solve the problem.

Our interest in closing this loophole is not that large amounts of trade are entering through it at this time. In fact, there is essentially no trade in this item. The reasons for that are, however, the U.S. corduroy market is severly depressed and there is little or no incentive to be importing corduroy at this time. During 1980 when the market was much tighter 1.5 million square yards of this type corduroy entered the U.S. from Hong Kong. This fabric did not enter under the higher duty rate corduroy tariff line, but rather through the loophole and benefited from the lower duty. Our concern is that when the domestic corduroy market revives large quantities of uncut corduroy will enter and disrupt our market through this lower

duty loophole. One reason for our concern is that the People's Republic of China, which has become the fourth largest exporter to our market, has a tremendous potential to produce and export corduroy. And although the PRC has this potential, it has insufficient capacity to cut and finish corduroy. Thus, it would seek markets for grey or uncut fabric and the loophole availabie in the U.S. Tariff Schedule would become an inviting and practically irresistable incentive to ship large quantities to this market.

As you know this industry is already being disrupted in many areas by the large and abrupt increases in shipments from the People's Republic of China. We have watched imports of other fabrics grow dramatically and have had to curtail our own production as the Chinese take a larger and larger share of our domestic market. We do not want this to happen with corduroy and we believe that the best remedy to avoid this will be to close the loophole before it becomes a major problem. Therefore, we support the passage of this bill.

Thank you, Mr. Chairman and I would be glad to answer any questions you or your committee might have.

Chairman GIBBONS. For the record, we will include your statement.

Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

First of all, I want to welcome Messrs. Bryan and Montgomery to the committee. As Mr. Bryan indicated, he is a resident of my congressional district and has been very aggressive in the district through business and other ways, and I welcome him to the committee.

Mr. BRYAN. Thank you, sir.

Mr. JENKINS. Morris, as I understand what you have indicated in the latter part of your statement, right at this point, because of low demand, it is not an overwhelming problem as far as imports, right as of this moment.

Mr. BRYAN. That is right.

Mr. JENKINS. But what you are trying to do in view of this decision is to have this matter clarified, because you recognize that if this continues obviously you are going to be plagued with low-tariff uncut corduroy and velveteen, I believe, in the future; is that right?

Mr. BRYAN. Yes, sir, that is correct. This loophole has been used in the past when corduroy—when the economy permitted it to be used. Just as evidence of what you just said, Ed, 2 years ago corduroy production in the United States was 450 million yards. Last year it was 350 million yards, and we are now producing at the rate of 250 million yards. We are very beleaguered in our problem.

Mr. JENKINS. And during that time I guess you had a maximum of a couple of million yards or so a year of imports?

Mr. BRYAN. Of this particular type of import, yes.

Mr. JENKINS. Through this loophole that has been created by the Customs Court.

Mr. BRYAN. That is correct, sir.

Mr. JENKINS. So we are not really attempting to do anything except reaffirm what the Congress did several years ago.

Mr. BRYAN. That is correct.

Mr. JENKINS. And it said the tariff will be this for cut and uncut.

Mr. BRYAN. It is difficult to see how it could be interpreted otherwise, but it was. Cut and uncut, and this is just a reaffirmation of that position Congress took initially on this issue.

Mr. JENKINS. I want to thank you for your testimony, and I would hope we can get a position from the administration rather quickly, so that we can get some action on this.

Mr. BRYAN. Thank you very much.

Chairman GIBBONS. Do I understand that what is taking place here is the court has said uncut corduroy is not corduroy? Is that what it said?

Mr. BRYAN. In effect, that is what they said. They should be treated like any other fabric, whereas the wording, Mr. Chairman, is so clear. It says "whether cut or uncut in part or not cut at all." And that is corduroy. Corduroy is a very complicated fabric to make and that is why the duty is as high as it is, and it should be.

There is very little difference in the wording that we are asking for now and what the original wording was. We hope we have got it clarified to the point where there will not be any more misinterpretations of it.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Why do we need 35 percent ad valorem tariff to protect us? What is our competitive problem, Mr. Bryan?

Mr. BRYAN. I did not hear you, sir. I apologize.

Mr. FRENZEL. You are proposing we raise the duty from somewhere around 10 percent or a little less up to a maximum of 23 to 35 percent. Why do we need such an extraordinary amount of protection? That is an extraordinarily high tariff rate.

Mr. BRYAN. Sir, we are not asking you to raise it. We are asking you to reaffirm what was done originally. There was an awful lot of thought put into that originally because corduroy is a highly technical fabric, as is velveteen, and those are the two fabrics we are asking for a reaffirmation of the original interpretation. Actually, the tariffs have been reduced under the tariff reduction schedule starting last year. It was up to 38 percent originally and it has now been reduced to this 35.

Corduroy is not like a sheeting, or a printcloth, or a simple fabric. It is a very difficult fabric.

Chairman GIBBONS. When you say a difficult fabric, I frankly know very little about fabrics. Could you explain why corduroy is more difficult than other fabrics?

Mr. BRYAN. Yes, sir. I will try to do it simply. There are many threads per inch as compared to a sheeting. A sheeting may have 40 warp threads and 40 filler threads, like this. A corduroy has approximately 70, 80 in the warp and as many as 200 in the filling or the yarn running across the cloth.

It is woven on a particular type of loom. It is a more expensive loom. It is a loop known as a dobby. There are many harnesses that raise and lower the warp threads. It is not just one up, one down, interlacing of the threads. It is quite a complicated one.

Corduroy, there are really two fabrics. There is a base fabric; then on top of that base fabric are piled the filling threads in a tunnel shape. Then in the finishing a guide goes down the tunnel and a knife fits in the top of the guide, clipping the top threads but leaving the base fabric as it is.

It is quite complicated to make.

Chairman GIBBONS. The uncut corduroy is the one where the knife just does not go down through it?

Mr. BRYAN. The uncut corduroy is the first step of weaving. Then the finish piece, the white piece I gave you, the finishing is where the knife goes and cuts the top of the threads. In other words, you cannot make corduroy out of anything but corduroy. That is why it is so essential that the uncut corduroy be classified as a corduroy. I hope I did not complicate it.

Chairman GIBBONS. What you do, no matter whether you have got cut or uncut corduroy, you have to in the same process make corduroy and then cut it; is that right?

Mr. BRYAN. Yes, sir. You must weave corduroy in order to make the finished corduroy.

Chairman GIBBONS. In order to make the cut corduroy?

Mr. BRYAN. That is correct. You said that very well, sir.

Mr. JENKINS. Whatever name you call it, it is still corduroy.

Mr. BRYAN. That is right.

Chairman GIBBONS. I noticed on the back side of these fabrics, they look the same.

Mr. BRYAN. That is right. That is the tunnel we were talking about. The back side is the uncut back that holds it together.

Chairman GIBBONS. Questions?

Mr. BAILEY. We have been on the issue of the ad valorem and I just wonder if the gentleman is aware of the difference between the labor charges for what you are dealing with?

Mr. BRYAN. The cost is much higher in corduroy because of the thread content we described.

Mr. BAILEY. And you try to pay good wages and provide good benefits.

Mr. BRYAN. We are very proud, both Mr. Montgomery and I are very proud of our modern plants. We have worked awfully hard to comply with dust standards. We have done that. That has taken an awful lot of money. I have been in foreign mills and I am ashamed to go in them because of the lack of dust control.

They have many other advantages, Congressman, over us. They do not have OSHA. They do not have EPA. They do not have those other regulations.

Mr. BAILEY. Maybe someday as a matter of policy we will just try our best to export some labor standards along with some other things.

Mr. BRYAN. I hope we can.

Mr. BAILEY. I think the gentleman has a very reasonable request. Of course, you have an outstanding member of Congress working on your behalf. And I wish you success.

Thank you.

Chairman GIBBONS. Mr. Montgomery, would you like to add anything to what has been said?

Mr. MONTGOMERY. Just one comment in answer to Congressman Frenzel's question about the difference in rates. I think Congressman Bailey brought it up. It is the higher labor cost, higher labor content in corduroy. The cutting operation is a labor intensive one and the finishing one is labor intensive.

Mr. BAILEY. Mr. Chairman.

Chairman GIBBONS. Mr. Bailey.

Mr. BAILEY. As soon as this panel is dismissed, I am wondering if the chairman would indulge me for a couple of minutes to discuss a

bill that is very pertinent in this discussion that I have introduced on cordage, when the chairman is through.

Chairman GIBBONS. Thank you, gentlemen. We appreciate your coming very much.

Mr. BRYAN. We appreciate your having us.

Chairman GIBBONS. We appreciate the work your Congressman does here. He is on the job and he is effective.

Mr. BRYAN. Mr. Chairman, to hear that coming from you makes me feel very good. Thank you, gentlemen.

Mr. BAILEY. Mr. Chairman, thank you very much for being so kind to me. I introduced a bill just a couple of days ago, Mr. Chairman, H.R. 7107. It amends the tariff schedules of the United States to establish an equal and equitable classification in duty rates for various cordage products of really identical characteristics. In a nutshell, all this bill deals with is a situation where a Customs definition dealing with what constitutes plastic fiber in bundles simply has said in the past that if you had a constituent fiber that was made out of a less than 1-inch-wide plastic strip, then the cordage or plastic rope material of which that was a component came in as rope. If, on the other hand, the cordage, came in greater than 1 inch in width, the material is considered as plastic and so classified under the tariff schedules, entering the country duty free.

What has happened is that, recognizing this discrepancy in our law and to the detriment of domestic producers, foreign producers have produced a rope and they specifically designed it so that it was an inch or better. Then when it is analyzed it comes in as plastic, although it is rope.

It has hurt our domestic people. It is a deliberate way to get around the duty. I have checked the general system of preference implications and I have given this information to the staff.

I realize that we have not had hearings and, although I know of no opposition or difficulty with the administration to the bill, I know some members would have objections. However, my reason for doing this is to make the chairman aware and members of the committee aware of this issue. Although I may be mistaken, I believe it might be in a Senate bill and therefore may be an issue in conference. I wanted the chairman to be aware of it.

I have examined it thoroughly. I have letters here from the administration and from Customs on the definition problem. It appears to be one of those cases where it only seems fair or right. I know of no controversy surrounding it. I know of no reasoned argument against it.

But in view of the fact that we have not had hearings, I could not say more to the chairman.

Chairman GIBBONS. I appreciate you alerting us to this. This may be something that we can act on this session.

Mr. BAILEY. I thank you, Mr. Chairman. Thank you so much for being so kind to me with the change in format here.

Chairman GIBBONS. This concludes the subcommittee's hearings on the miscellaneous trade bills. The record will remain open until the close of business Monday, September 20, for receipt of additional testimony or information to be included in the record.

The meeting is adjourned.

[Whereupon, at 11:15 a.m., the hearing was adjourned.]

APPENDIX

Agency reports and written comments received on bills considered in this hearing follow. The material is arranged numerically by house bill number.

H.R. 4221

To amend the Tariff Schedules of the United States with respect to corduroy and velveteen.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 4221, a bill: "To amend the Tariff Schedules of the United States with respect to corduroy and velveteen."

H.R. 4221 would classify imported fabrics of pile construction, whether or not the pile threads are cut, under Tariff Schedules of the United States (TSUS) items 346.05 through 346.65. It would definitively classify corduroy fabric, whether or not the filling floats are cut, under TSUS items 346.05 and 346.10; and velveteen fabric, whether or not the filling floats are cut, under TSUS items 346.15 and 346.24.

H.R. 4221 principally affects corduroy and velveteen fabrics with filling floats uncut. These products have entered the United States under TSUS items 320.1092 and 326.1092, at tariffs of 7.4 percent and 7.4 percent + 1.8 percent *ad valorem*, respectively. As a result of the Multilateral Trade Negotiations (MTN), these tariffs will decline to 6.3 percent and 6.3 percent +1.2 percent *ad valorem* for TSUS items 320.10 and 326.10, respectively.

If the pile is cut, the fabric currently enters under TSUS items 346.05, 346.10, 346.15, 346.20, 346.22 and 346.24, with column 1 tariffs ranging between 22.1 percent and 35 percent *ad valorem*. The range of tariff rates on cut pile corduroy and velveteen fabrics will decline incrementally as a result of the multilateral trade negotiations to between 16 percent and 23 percent *ad valorem*.

The Department of Commerce has no objection to enactment of H.R. 4221.

Until a Customs Court decision (U.S. v. Tilden Textile Corp., upheld 65 C.C.P.A. 18 (1977)), corduroy and velveteen, whether or not the filling floats were cut, entered the U.S. under TSUS items 346.05–.10 and TSUS items 346.15–.24, respectively. Enactment of H.R. 4221 would restore these fabrics to the previous classifications. It also would be consistent with internationally agreed definitions of pile fabrics. During negotiations in Brussels for a harmonized system of tariff nomenclature, all countries in the negotiations agreed that pile fabrics, whether or not the filling floats were cut, should be classified under the tariff heading for pile fabrics.

There would be no revenue loss if H.R. 4221 were enacted. Enactment of H.R. 4221 would have no effect on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 4221, if enacted, would amend the superior headings to items 346.05 through 346.65 of subpart A, part 4, schedule 3 of the Tariff Schedules of the United States (TSUS) to provide that all imported fabrics of pile construction be classifiable in such items which are the applicable pile fabric provisions. Currently, imports of such fabrics, in which the pile is not raised or projecting from the surface of the

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base fabric, are classifiable elsewhere in the TSUS usually as broadwoven fabrics in part 3 of schedule 3.[1]

In the manufacture of corduroy and velveteen fabrics, for example, extra yarn is woven into the base fabric and the yarn is subsequently cut to "raise" a pile on the surface of the fabric. Prior to the yarns being cut, the fabric, while of pile construction, appears to be a "flat" fabric. Under existing practice such fabrics would be considered to be "pile fabrics" and classified under items 346.05 through 346.65 only if they have been cut prior to importation. As a result of this legislation, they would be classified under such items even if uncut since they are "of pile construction."

Prior to 1976 all imports of fabrics of pile construction (whether cut or uncut) were classifiable in items 346.05 through 346.65. However, in 1976, the Customs Court ruled,[2] with reference to certain imports of unfinished velveteen, that to be classified in the pile fabric provisions, such fabrics must have not only the characteristic weave or construction provided for in the superior heading to items 346.05 through 346.65 [3] but also must have a raised pile projecting from the surface of the fabric. This ruling was affirmed by the Court of Customs and Patent Appeals in 1977.[4]

The proposed legislation would restore the pre-1976 Customs practice of classifying all imported fabrics of pile construction in items 346.05 through 346.65 whether or not the pile is raised or projecting from the surface of the fabric.

While this legislation is technically applicable to numerous items in subpart A, part 4 of schedule 3,[5] its effect is only or primarily on imports of unfinished cotton corduroy and cotton velveteen which would enter under TSUS items 346.05 through 346.24.

Description and uses

A woven pile fabric consists of a foundation cloth made of warp [6] and filing [7] yarns, and an extra set of yarns, which may be warp or filling yarns. The extra yarns form the pile which, uncut, looks like ridges on the cloth. There are two types of pile fabrics: warp pile fabrics such as velvet, plush and terry fabrics which are constructed with an additional set of warp yarns know as pile picks, and filling pile fabrics, such as velveteen and corduroy, which are constructed with an extra set of filling yarns called filling floats.

Woven warp pile fabrics such as velvet are constructed so that they come off the looms with a raised pile which may consist of cut ends or loops on the surface of the fabric. Filling pile fabrics, such as corduroy or velveteen, come off the loom with their filling floats uncut. Thus, fabrics of velveteen or corduroy construction must have their floats cut in the finishing process in order to obtain the pile formation on the fabric surface. (See illustration attached as Appendix A.)

Pile fabrics are used in the manufacture of headwear, footwear, coats and other apparel; upholstery, spreads, drapes, washcloths, towels, bathmats, and other furnishings; and luggage, toys, paint rollers, caskets, and powder puffs. Corduroys are used especially in coats, hunting apparel, slacks and trousers, slip covers, and headgear. Velveteens are used particularly in children's wear, evening wear, coats, dresses, suitings, hats, and wall hangings. There are some limited commercial uses for the uncut fabrics used in making corduroys and velveteens; these include draperies, curtains, and napped fabrics utilized in a number of apparel products.

Tariff treatment

Tariff treatment for the items primarily affected by H.R. 4221 is shown below:

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[1] Rates of duty in part 3 are generally lower than for items 346.05 through 346.65.

[2] *Tilton Textile Corp.* v. *United States*, 77 Cust. Ct. 27, C.D. 4670 (1976).

[3] The superior heading reads: Pile fabrics, in which the pile was inserted or knotted during the weaving or knitting, whether or not the pile covers the entire surface, and whether the pile is wholly or partly cut or is not cut.

[4] *United States* v. *Tilton Textile* 65 C.C.P.A. 18, C.A.D. 1199 (1977).

[5] TSUS items 346.05, 346.10, 346.15, 346.20, 346.22, 346.24, 346.45, 346.50, 346.52, 346.56, 346.60 (pt.) and 346.65.

[6] A yarn that runs lengthwise in a cloth.

[7] A yarn that runs breadthwise in a cloth and interlaces with the warp yarn at right angles.

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1981)

SCHEDULE 3. - TEXTILE FIBERS AND TEXTILE PRODUCTS
Part 4. - Fabrics of Special Construction or For Special Purposes; Articles of Wadding or Felt; Fish Nets; Machine Clothing

Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty	
				Col. 1 1/	Col. 2 2/
		Pile fabrics, in which the pile was inserted or knotted during the weaving or knitting, whether or not the pile covers the entire surface, and whether the pile is wholly or partly cut or is not cut:			
		Of cotton:			
		Corduroys:			
346.05	00	52 inches or more in width and valued 50 cents or more per square yard.....(312)	Sq. yd.	23% ad val.	50% ad val.
346.10	00	Other.....(312)	Sq. yd.	38% ad val.	50% ad val.
		Velveteens:			
346.15	00	Plain-back.....(311)	Sq. yd.	25% ad val.	31.25% ad val.
		Other, including twill-back:			
346.20	00	Valued not over 85 cents per square yard..(311)	Sq. yd.	30% ad val.	44% ad val.
346.22	00	Valued over 85 cents but not over $1.10 per square yard..(311)	Sq. yd.	25¢ per sq. yd. 3/	44% ad val.
346.24	00	Valued over $1.10 per square yard.....(311)	Sq. yd.	22.5% ad val.	44% ad val.

Footnotes for preceding page

1/ The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ Ad valorem equivalent cannot be calculated because imports in 1978, 1979, and 1980 were nil or negligible.

Column 1 rates of duty are Most-Favored-Nation (MFN) rates, and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS for which column 2 rates of duty apply. TSUS items 346.05 - 346.24 are not eligible for duty-free treatment under the Generalized System of Preferences and preferential rates are not offered to least developed developing countries.

The column 1 rates of duty for TSUS items 346.10 - 346.24 are scheduled to be reduced as a result of the Tokyo round of Multilateral Trade Negotiations which were concluded in 1979. 1/ The rates of duty will be reduced in 6 annual stages beginning January 1, 1982. The current and staged rates of duty in percent ad valorem or cents per square yard for these items are shown in the following tabulation.

Year	Item number and rates of duty				
	346.10	346.15	346.20	346.22 1/	346.24
1981	38%	25%	30%	25c	22.5%
1982	35.5%	23.5%	28.3%	24.2c	22.1%
1983	33%	22%	26.7%	23.3c	21.7%
1984	30.5%	20.5%	25%	22.5c	21.3%
1985	28%	19%	23.3%	21.7c	20.8%
1986	25.5%	17.5%	21.7%	20.8c	20.4%
1987	23%	16%	20%	20c	20%

1/ Rate of duty is in cents per square yard.

Imports of cotton corduroy and cotton velveteen are subject to control under the terms of the Arrangement Regarding International Trade in Textiles (known as the Multifiber Arrangement (MFA)). Under the MFA the U.S. has

1/ No reduction was made on item 346.05.

negociated bilateral agreements with 19 1/ textile exporting countries which provide specific limitations on imports of individual textile products or groups of textile products or provide for consultations when predetermined trade levels are reached.

Imports subject to control under the MFA and which are also scheduled for MTN staged reductions in the column 1 rates of duty are presently subject to the so-called "snapback" provision provided for in headnote 8, schedule 3, TSUS (as added by section 504 of the Trade Agreements Act of 1979). 2/ That headnote requires the President to reinstitute by proclamation the pre-MTN column 1 rate of duty (i.e., that rate existing on January 1, 1975) if --

> the Arrangement, or a substitute arrangement, including unilateral import restrictions or bilateral agreements, determined by the President to be suitable, ceases to be in effect with respect to the United States before the total reduction in the rate of duty for such item under sections 101 and 109 of the Trade Act of 1974 has become effective . . ..

1/ In addition, the United States has negotiated bilateral agreements limiting textile imports with Taiwan, China, and Costa Rica pursuant to the provisions of section 204 of the Agricultural Adjustment Act of 1956. These agreements are similar to those negotiated under the MFA although Korea, Taiwan, and Costa Rica are not signatories to the MFA.

2/ See S. REP. No. 96-249, 96th Cong., 1st Sess. 174-5 (1979).

Structure of the domestic industry

As of August 1, 1981, 14 companies manufactured unfinished corduroy. The leading producers and plant locations are shown below:

FIRM	MILL	LOCATION
Cone Mills	Florence	Forest City, NC
	Tabardrey	Haw River, NC
	Haynes	Avondale, NC
	Minneola	Gibsonville, NC
	Eno	Hillsborough, NC
	Pineville	Pineville, NC
	Revolution	Greensboro, NC
Burlington Industries	Marion	Marion, NC
	Mooresville	Mooresville, NC
	Asheville	Asheville, NC
Crompton Co.	Richmond	Leesburg, AL
	Morrillton	Morrillton, AK
	Highland	Griffin, GA
	Pilot	Raleigh, NC
Spartan Mills	Rosemont	Jonesville, SC
	Spartan	Spartanburg, SC
	J.P. King	Augusta, GA
	Beaumont	Spartanburg, SC
	J.H. Montgomery	Chesnee, SC
J.P. Stevens	Greer	Greer, SC
Greenwood Mills	Plant #4	Greenwood, SC
	Plant #5	Greenwood, SC
	Plant #12	Greenwood, SC

The top five producers account for about 70 percent of total production and the largest producer, Cone Mills, accounts for nearly 25 percent of all production.

Industry sources state that there is only one U.S. producer of velveteen, Crompton Co. Crompton produces velveteen in Leesburg, Alabama.

Employment attributable to corduroy and velveteen production is approximately 18,000. Due to the specialized weaving and finishing equipment used in the production of pile fabrics, the plants engaged in manufacturing such fabrics usually do not produce other types of fabrics.

Domestic production

U.S. production of cotton corduroy increased steadily from 1976 to 1980, as shown in the following tabulation:

Year	Production (million linear yards)
1976	210
1977	243
1978	266
1979	285
1980	294

The value of this production is not reported, but is estimated to have been approximately $750 million in 1980.

Production data for cotton velveteen is not available as it is published by the Department of Commerce combined with velvet, velour, and plush fabrics. The production of this group of fabrics ranged between 11 and 15 million linear yards between 1976 and 1980. The estimated value of production in 1980 was 60 million dollars.

U.S. imports

U.S. imports of unfinished cotton corduroy and velveteen are classifiable as broadwoven fabrics and enter primarily under TSUSA item 326.1092 and to a lesser extent under 320.1092. Since a wide variety of fabrics enter under these items no data are available concerning the quantity of corduroy and velveteen entering under those provisions. Total imports for 1980 under items 320.1092 and 326.1092 were 16.2 million square yards. Commission staff estimates that of that quantity, as much as 4 million square yards could have been unfinished corduroy and velveteen principally supplied by Hong Kong, Colombia, and Taiwan.

With regard to imports of finished corduroy and velveteen entering under TSUS items 346.05 through 346.24, imports have declined in quantity since 1976. The quantity and value of these imports from 1976 to 1980 are shown below:

Year	Quantity	Value
	--Million square yards--	---Million dollars---
1976	4.6	6.6
1977	3.2	5.6
1978	3.9	7.1
1979	3.5	5.6
1980	2.7	6.4

During these years, most imports have been under item 346.24, cotton velveteen valued over $1.10 per square yard. In 1980, this item accounted for 80 percent of the quantity of imports.

Japan is, by far, the leading source of imports of finished cotton corduroy and velveteen, providing 76 percent of the total in 1980. Other leading sources are Italy, China, and Korea which together shipped 19 percent of 1980 imports. Virtually none of the imports of these fabrics in recent years have come from column 2 sources, though some corduroy was imported from China before it was granted most-favored-nation status in 1980.

Leading importers of these fabrics, based on value, during July-December 1980 are:

Sears Roebuck & Co., Seattle, Washington
Jerie Sales Co., New York, New York
Jerry Mann of California, Los Angeles, California
Threadtex, Inc., New York, New York
Sunkyong International, Inc., New York, New York
Scandia Trading Co., Inc., Winchester, Massachusetts
Textiles Inc., Fall River, Massachusetts
Jack L. Larson Furniture Co., New York, New York
Tandler Textiles, New York, New York
Comfort Designs, Kingston, Pennsylvania

U.S. exports

The quantity of U.S. exports of cotton corduroy increased nearly 6-fold from 1977 to 1979, from 20 to 120 million square yards. The quantity and value of U.S. exports of cotton corduroy are shown below:

Year	Quantity	Value
	--Million square yards--	---Million dollars---
1976	20.0	26.2
1977	20.4	28.9
1978	38.6	64.0
1979	119.8	205.5
1980	80.8	158.6

The high quantity of exports in 1979 was due to demand in Europe for clothing--principally jeans--of corduroy. Nearly 50 percent of the exports of cotton corduroy in 1979 went to France and Italy.

Exports of cotton velveteen are not reported separately but are believed to be 2-4 million square yards yearly.

The leading exporting firms are the same as the leading producers.

Apparent U.S. consumption

Apparent U.S. consumption of the fabrics under consideration for 1980 1/ is shown in the following tabulation in thousands of linear yards:

Production 1/	Imports classified under TSUS items 346.05-346.24	Imports classified under TSUSA items 320.1092 and 326.1092 1/	Exports	Apparent consumption 2/
304,000	1,889	2,840	59,498	249,231

1/ Partially estimated.
2/ Estimated.

1/ Consumption data has been estimated by Commission staff. Estimates for years prior to 1980 are not available.

Domestic consumption of these fabrics is currently declining due to a decreased fashion demand for corduroy apparel.

Potential annual loss (or gain) of revenue

This legislation would require certain pile fabrics currently entering under items 320.1092 and 326.1092 of the TSUSA to be classified under items 346.05 through 346.24. In 1980 the average duty on imports entering under items 320.1092 and 326.1092 was 8.6 and 10.5 percent ad valorem respectively, and the average duties for items 346.05 through 346.24 ranged between 22.5 and 38 percent ad valorem. Based on the volume of 1980 trade, it is estimated that this legislation would increase customs revenue by approximately $480,000 annually.

Technical comments

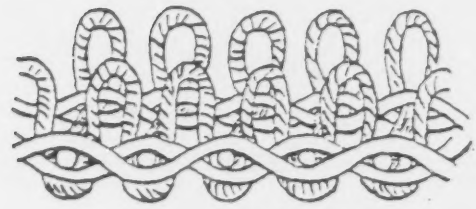
It is recommended that the words "or yarns" be inserted in the proposed superior heading to items 346.05-346.65 following all three usages of the word "threads". While the terms "thread" and "yarn" are sometimes used interchangeably, thread is often strictly defined as having certain twist, finish, and other characteristics to make it suitable for sewing. It is recommended that the word "threads" be retained in the superior heading to provide continuity with a considerable body of writings, definitions, and court decisions that refer to "threads" in the discussion of pile fabrics. 1/

There are also some minor typographical errors in the legislation, as introduced. A comma should be inserted after "the entire surface" in the material following line 6, page 1. The word "fabric" should be replaced by "fabrics" in the materials following lines 3 and 6, page 2. The word "construction" should be inserted in lieu of "connstruction" in the material following line 3, page 2.

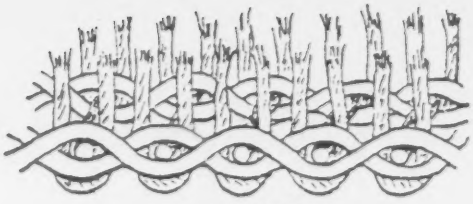
1/ We note that headnote 2(e), schedule 3, states that "the term "yarns" includes threads . . .". In an early draft of the TSUS, this headnote definition covered "yarns and threads". Tariff Commission, Tariff Classification Study -- Explanatory and Background Materials, Schedule 3 (Nov. 15, 1960) at 5.

Appendix A

Illustrations of pile fabrics
(77 Cust. Ct. 48)



Loop Pile



Cut Pile

Fig. 19–2. Woven pile fabric.

Fig. 19–3. Filling pile. Floats are cut.

Inasmuch as the imported merchandise lacks the requisite pile formation on its surface, it is not a "pile fabric" nor, to be more specific, a "velveteen" as provided for in item 346.15, TSUS.

In view of our holding, we need not reach the second issue raised by plaintiff, namely, whether the imported fabric has a velveteen construction.

For the above reasons, it is concluded that the merchandise in issue is properly classifiable under item 320.14, as claimed by plaintiff. Judgment will be entered accordingly.

H.R. 4428

Relating to the duty-free entry of certain scientific equipment imported for the use of the Ellis Fischel State Cancer Hospital, Columbia, Missouri.

Statement of Hon. Richard A. Gephardt, a Representative in Congress From the State of Missouri

I want to thank the Subcommittee on Trade for allowing me to testify in favor of H.R. 4428, a bill that would benefit both the Ellis Fischel State Cancer Hospital in Columbia, Missouri, and the State of Missouri. Although this bill may seem insignificant, the money involved could provide a large number of services and equipment for an institution such as a state cancer hospital.

The facts involved in this legislation are rather straightforward. Due to some difficulties in coordination and communication between the parties involved, duties were paid on scientific equipment which had been previously granted duty-free status by the Department of Commerce. This bill would provide reimbursement for the amount of the duties paid by the hospital and State of Missouri.

I feel that this legislation warrants careful consideration, especially in these economically hard times. The amount of money involved is relatively insignificant on the federal level, but in the context of the shrinking budgets for state institutions, this amount of money could certainly be used for other worthwhile projects and equipment. Facilities such as the Ellis Fischel Hospital are currently working wonders in our constant fight against the threat of cancer in our society. Forcing them to spend more than is necessary for vital scientific equipment, deprives these hospitals of capital which could be used for more humanitarian purposes. Finally, because the duty-free status of the equipment was never in doubt, I think that reliquidation is the only fair course of action.

H.R. 6093

To implement Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, which protocol was opened for signature on March, 1, 1977, and for other purposes.

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 6093, if enacted, would make permanent changes to the Tariff Schedules of the United States (TSUS) to implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials. Such changes would become effective on a date to be proclaimed by the President on which the protocol comes into force as to the United States.[1] The protocol's intent is to contribute to the cause of peace through a freer exchange of ideas and knowledge across national boundaries. To achieve this goal, duty-free treatment would be extended to various printed materials, visual and auditory materials, tools, and articles for blind handicapped persons.[2]

The proposed legislation also provides for the temporary implementation, for a period not to exceed 2-½ years, of the substance of the permanent provisions during the interim period prior to the date when the protocol comes into force as to the United States. This would be accomplished by Presidential proclamation.[3]

Section 7 (Tools for Scientific Instruments or Apparatus) and 8 (Articles for the Blind or other Handicapped Persons) of the bill would provide more liberal tariff treatment for the articles provided for therein than is required by the protocol. Section 7, for example, would not require a determination that tools of equivalent scientific value are not being manufactured in the United States in order to obtain duty-free treatment for the imported tools. Section 8 would accord duty-free treatment to articles for the handicapped imported by any individual (rather than only to those "imported by institutions or organizations concerned with the education of, or assistance to such persons, approved by the competent authorities of the importing country . . . " as stated in the protocol) without the protocol's requirement that "equivalent objects are not being manufactured in the importing country."

Section 4 of the bill provides some safeguard against the abuse of such provisions, however. It gives the President the authority to proclaim changes to the TSUS to narrow the scope of, or place conditions upon, the duty-free treatment accorded to any article under those sections (or the temporary tariff treatment accorded to such articles under section 3) if he determines that significant adverse impact on a domestic industry making a like or directly competitive article has resulted and that duty-free treatment for such articles is not required by the Florence agreement or the Nairobi protocol.

The Agreement

The Florence Agreement was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in July 1950, and entered into force as to ten states on May 21, 1952. The Agreement provides for the exemption from duties of specified publications, other information materials,

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[1] Parapraph 17 of the protocol provides for it to come into force 6 months after the date of deposit of the fifth instrument of ratification, acceptance or accession with the Secretary General of the United Nations or for later signatories, 6 months after the date of deposit of its instrument of ratification, acceptance or accession.

[2] Appendix B sets forth a sample draft of the TSUS which incorporates the changes proposed in H.R. 6093.

[3] Section 3 of the bill directs the President to implement on a temporary basis the substance of section 8 (Articles for the Blind or Other Handicapped Persons) but allows him discretion as to whether to implement on a temporary basis the other tariff provision of the bill, which are set out in sections 5, 6 and 7.

and objects of cultural and artistic interest in order to promote the free exchange of ideas. The United States signed the Agreement and an accompanying protocol of reservation in 1959, but implementing legislation was not approved until October 14, 1966; the documents entered into force as to the United States on November 2, 1966.

The Agreement obligated contracting states to refrain from applying customs duties or other charges on enumerated classes of books, publications, and documents; on original works of art, hand-executed copies, and collector's pieces; on certain visual and auditory materials; and on limited categories of scientific instruments and articles for the blind, as well as on books or publications in Braille or other raised characters. Imports of educational, scientific or cultural materials for exhibit and re-export are also afforded free entry. Exception to these terms could be made on grounds relating directly to national security, public order or public morals.[4] Conciliation and the reference of disputes to the Director-General of UNESCO were provided for in Articles VII and VIII.

In the implementing legislation,[5] Congress adopted several new TSUS items covering certain books, toy books, periodicals, foreign tourist literature, music, maps, atlases, charts, works of art, and antiques, with no duty rates on imports from any sources. Additionally, specified articles imported by educational, scientific, and certain other institutions were granted free entry on a case-by-case basis, as approved by the Secretary of Commerce and the Secretary of the Treasury. The importing institution must establish that no domestically produced article of equivalent scientific value can be substituted for the apparatus being imported; if such a showing is deemed insufficient by the above officials, appropriate duties must be paid.

The protocol

The Nairobi protocol, drafted between 1973 and 1976, was opened for signature on March 1, 1977 and represents both an extension of the Agreement to additional categories of articles and an application of original provisions to new technological products.

Under the protocol, a contracting party would be obligated to exempt the following articles from customs duties and other charges:

(1) printed books; printed publications and documents of a non-commercial character; microforms of all the foregoing; catalogs of visual and auditory material of an educational, scientific, or cultural nature; scientific maps and charts; architectural, industrial, or engineering plans; and bibliographical information for free distribution;

(2) works of art and collector's pieces of an educational, scientific, or cultural character;

(3) scientific apparatus or instruments imported by approved public or private scientific or educational institutions, where articles of equivalent scientific value are not manufactured in the importing country; spare parts, components or accessories therefor; and tools for the maintenance, checking, gauging or repair of such apparatus or instruments (within specified requirements); and

(4) articles specially designed for the advancement of the blind or other physically or mentally handicapped persons, when the article is imported by approved institutions concerned with the education of or assistance to such persons and when no equivalent objects are being manufactured in the importing country.

These other charges would not include internal taxes or charges not exceeding those assessed directly or indirectly on like domestic products; or fees and charges, other than customs duties, reflecting the cost of serves rendered by the importing country's government and not representing either an indirect protection to domestic products or a revenue tax on imports. Contracting parties would agree to extend such free entry to either of the following:

(1) visual and auditory materials, including films (or negatives); sound recordings; patterns, models (except toy models), and wall charts of an educational, scientific, or cultural character; video-tapes; holograms; multi-media kits; and other materials; or

(2) the same materials, when limited to those of an educational, scientific or cultural character;

and could grant free entry to sports equipment, musical instruments and equipment, or material and machines used for the production of books, publications, and documents under specified circumstances.

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[4] Agreement, article V.

[5] Public Law 89-651 of Oct. 14, 1966, 80 Stat. 807.

No duties or charges could be assessed on any of the above articles upon export to another contracting party. Licenses and foreign exchange or both would be provided by the parties to the public and private organizations for the importation of the printed, visual and auditory materials mentioned above. Parties would undertake to promote the free circulation of educational, cultural, or scientific materials and of knowledge and ideas, and would assist in handling such materials imported for showing at public exhibition. The protocol would not supersede any copyright, trade mark or patent laws, regulations and agreements.

Restrictions on importation or subsequent circulation of these articles could be applied if directly based on national security, public order, or public moral considerations. In addition, developing countries which are parties to the protocol could suspend or limit any of their obligations where importation of an article causes or threatens serious injury to 'nascent indigenous industry.' [6] Such action could be implemented only upon notification and in a non-discriminatory manner. A dispute settlement mechanism is provided, calling for conciliation or ultimately for reference to the Director-General of UNESCO for an advisory opinion.

The protocol goes beyond the Agreement in scope: the Agreement limited the obligation on the part of states to provide duty-free treatment to enumerated books, publications, and documents and to certain educational, scientific, and cultural materials. In implementing the Agreement, the United States was permitted to attach a reservation providing for the suspension of any obligation under the Agreement as to a product imported in such relatively increased quantities and under such conditions as to cause serious injury to the domestic industry producing a like or directly competitive product. Notification and consultation under the auspices of UNESCO are required, except in critical circumstances, prior to such U.S. action pursuant to the reservation.

Description and uses

The principal tariff items which are likely to be affected by the enactment of this legislation are described below as they appear in the Tariff Schedules of the United States (TSUS).[7] Some articles covered by the protocol are now dutiable; others already enter free of duty but are being included in proposed new items which describe the subject articles in language similar to that of the Protocol. Thus, one of the new items may include articles currently classified in several TSUS items.

Schedule 2, part 5.—The term "catalogs" in schedule 2, part 5 in the TSUS includes printed material falling in two categories. Catalogs, for customs purposes, are classified either as printed catalogs relating chiefly to current offers for the sale of U.S. products (TSUS items 270.45 and 270.50), or printed catalogs, price lists, or trade notices relating to offers by foreign residents or business persons to sell products of a foreign country or to furnish foreign or international transportation or commercial insurance services (TSUS item 270.85).

Architectural, engineering, industrial, or commercial drawings and plans, whether originals or certain printed reproductions (TSUS item 273.45, 273.50 and 273.55), include drawings suitable as designs for use in the manufacture of floor coverings, textiles, wall coverings, or wallpaper. Also included is art work painted by artists for sale or to be used to prepare lithographic plates for the printing of greeting cards.

Photographs and certain pictorial matter (TSUS items 274.50 thru 274.70) include photographs (positive and negative), engravings, etchings, lithographs, woodcuts, and pictorial matter produced by relief or stencil printing processes, whether or not bound and not specially provided for elsewhere in the TSUS. Also included are such articles as photographic transparencies (including microfilm and color slides), bank notes for collections, stock certificate forms, picture cards that are neither postcards nor greeting cards, bottle labels (except decalcomanias and wrappers), Christmas gift tags, and matchbook covers, provided that all these articles are printed by one of the above processes and that they contain pictorial matter.

Schedule 7, part 2, subpart G.—The legislation would affect motion-picture film and video tape in any form on which pictures or sound and pictures have been recorded, whether or not developed (TSUS items 724.05 and 724.10). In addition, sound recordings and magnetic recordings recorded on film, wire, or tape would be included in a single new provision, instead of in the six items now covering them.

Recorded magnetic video tape (TSUS item 724.12) is used in television programming and in the relatively new and growing industry of home video systems. News

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[6] Article VII:10.

[7] A complete description of the affected TSUS items is presented in table 1, and in Appendix B.

sound recordings relating to current events abroad (TSUS item 724.15) consist largely of international reports by news syndicates for consumption in the U.S. market. TSUS item 724.20 includes sound recordings suitable for use with motion-picture exhibits, other than those provided for in item 724.05—namely, the sound tracks related to certain pictorial material recorded separately in the production of motion pictures. Recordings on wire (TSUS item 724.35) have been virtually eliminated as a recording medium because of the superiority of tape. Phonograph records are classified in TUSUS item 724.25.

The legislation would also cover master tapes (TSUS item 724.40) and master records (TSUS item 724.30).

Schedule 8, parts 2D and 7; Schedule 7, part 2B; and Schedule 6, part 3E.—In addition to printed matter, motion pictures, and sound recordings, the following articles currently classified in schedule 8, in part 2B of schedule 7, and in part 3E of schedule 6 would be affected by the legislation:

(1) Patterns, models (except toy models), and wall charts of an educational, scientific or cultural character; mock-ups or visualizations of abstract concepts; materials for programmed instruction.

(2) Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons (except therapeutic articles, diagnostic articles, medicines or drugs); and

(3) Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus for which no corresponding or alternative article is manufactured in the United States, provided the article is imported for the use of a nonprofit institution established for educational or scientific purposes.

The bulk of the articles listed above are provided for under a small number of provisions of schedule 8 and a part of schedule 7. In schedule 7, hearing aids and parts thereof (TSUS item 709.50), bone and joint prostheses (TSUS item 709.56), and other prosthetic equipment (TSUS item 709.57) would be covered by the legislation. Some of these articles may now be entered duty-free within specified limitations.

The tools discussed above are currently provided for in various items of schedule 6, part 3E. The tools are designed to be used in connection with those machines covered by TSUS item 851.60, an item created on implementation of the Agreement. Such machines are not domestically produced and must be entered for the use of certain non-profit institutions to receive duty-free entry.

Tariff treatment

The existing tariff treatment for the articles affected by the legislation is set forth in table 1 of Appendix A. Articles currently eligible for duty-free treatment under the Generalized System of Preferences (GSP) [8] are designated by an "A" in the column labeled GSP.

As a result of concessions granted in the multilateral trade nogotiations, many of the Most-Favored-Nation (column 1) rates of duty [9] on TSUS items affected by this legislation are already being reduced. The staged reductions in rates of duty on articles imported from countries afforded MFN status for affected TSUS items are shown in table 2 of Appendix A. Many of the current duties are relatively low, and some articles covered by the protocol are now free of duty.

Structure of the domestic industry

Printers of catalogs, drawings and plans, and photographs and pictorial matter represent a relatively small portion of a substantial commercial printing industry.[10] Commercial printing products are basically grouped into six major segments, each of which contains articles affected by the legislation. These six groupings and their receipts for 1981 are: magazines and periodicals ($4.5 billion); catalogs and directories ($3.5 billion); general job printing ($5 billion); advertising printing ($5.5 billion); labels ($2.5 billion); and legal work ($2 billion).

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[8] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

[9] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[10] Value of receipts in 1981, for the industry, was estimated at $23 billion, by the U.S. Department of Commerce.

There were over 26,000 commercial printing establishments in 1977; it is estimated that the figure is somewhat higher in 1981. The top 50 printing companies accounted for approximately a third of the industry receipts in 1977, the latest year for which statistics are available. In terms of size, it is estimated that about 15 percent of all printing plants employ more than 20 people and only about 5 percent of commercial printing plants employ more than 250 employees. In terms of output, about half of all commercial printing is accounted for by plants with 20 to 250 employees, about a fourth by plants with fewer than 20 employees, and another fourth by plants employing over 250 employees. Total employment was estimated at 430,600 in 1981, up substantially from a low of 347,800 in 1975. The industry is concentrated in the industrial sections of the United States. About two-thirds of all printers are located in the Eastern United States. About 20 percent of the plants are located west of the Rockies and on the Pacific Coast, and the remaining 15 percent are in the Central States. Domestic production accounts for the bulk of U.S. consumption, with imports making only a minor contribution.

In 1981 more than 2,000 establishments were engaged in the production of motion pictures and video tapes for showing in theaters and on television. In terms of earnings, six major motion-picture producers, with studios located on the West Coast, account for approximately 85 percent of the U.S. total. Employment increased from 286,000 employees in 1977 to 309,000 in 1979 before declining to 287,000 in 1980; industry sources estimated that employment probably stabilized in 1981.

The production of motion pictures is a labor-intensive industry requiring writers, directors, producers, camera crews, construction crews, film editors, and actors and actresses. Only about half of the costs of a motion picture are for the actual production. The other half is comprised of expenses for marketing and distribution. A successful motion picture recovers virtually all of these costs at the box office with profit derived through the licensing of films to television, network television, and video cassette and video disk producers, as well as through foreign and local television syndication. Revenues from producers of video cassettes and video disks have been growing in recent years and are expected soon to exceed revenues earned from network licensing.

The United States is the world's principal consumer of phonograph records. There are about 1,100 phonograph record companies located throughout the United States but only about 110 companies that actually press phonograph records. Most of the major companies have their own pressing plants and also press records on a contract basis for other companies. Of the remaining companies, many are subsidiaries of larger companies, many are distributors, and some are importers.

The four largest producers account for about 60 percent of domestic production, while the eight largest producers account for about 80 percent of domestic production. Some U.S. producers have licensing agreements with producers in foreign countries for distribution of each other's records; they either own or control production facilities in foreign countries which manufacture records from master records or tapes shipped from the United States.

Employment of production workers in the manufacture of phonograph records increased from about 18,400 workers in 1977 to 19,200 workers in 1978 before declining to an estimated 17,300 in 1980 and dropping further to about 15,000 in 1981. The manufacture of phonograph records is a capital-intensive industry which has experienced increased automation in the past several years. The most important technological changes are in the raw materials used and in the methods of recording, which the basic technology of record pressing changes more slowly. Recent improvements in record pressing have generally been limited to increased automation and high speed duplicators.

It is conceivable that U.S. tool makers may produce tools designed specifically to maintain, check, gauge, or repair foreign-made instruments or apparatus for which no corresponding or alternative article is manufactured in the United States. However, it is unlikely that any domestic firm specializes in the production of such tools.

Electronic hearing aids are manufactured by 16 firms in the United States. The five largest companies account for the bulk of U.S. production, with the top two supplying over 40 percent. These firms are: Beltone Electronics (Chicago, Illinois), Starkey Labs, Inc., (Minneapolis, Minnesota), Dahlberg Electronics (Golden Valley, Minnesota), Oticon (Summerset, New Jersey), and Zenetron (Chicago, Illinois).

Between 40 and 50 firms manufacture artificial limbs and braces in the United States. The five largest firms account for the bulk of production. These firms are: U.S. Manufacturing Company (Pasadena, California), Hosmer-Dorrance (Campbell, California), Pope Brace (Greenwood, South Carolina), Becker Orthopedic Appliance Company (Troy, Michigan), and Kingsley Manufacturing Company (Costa Mesa, California).

Although there are many producers of other non-therapeutic or diagnostic articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons, no data are available concerning this industry.

Domestic production

In 1981, value of shipments (receipts) data for the commercial printing industry was estimated at $23 billion. Specific shipment data on catalogs, drawings and plans, and photographs and certain pictorial matter—the imported articles that would most likely affect U.S. printers—are not available. However, it is estimated that domestic receipts from catalogs, drawings, and plans account for approximately 5 percent of the annual value of receipts of the U.S. commercial printing industry. Annual production of photographs and certain pictorial matter is estimated to be in the hundreds of millions of dollars, with photographs and lithographs accounting for the bulk of the value.

U.S. production of motion-picture film cannot be accurately measured from the statistical data available. However, video products are expanding mainly as a result of the increasing demand for video-taped films for use on home video systems.

The continuing increase in production costs has made it difficult for independent producers to finance films. Printing and advertising costs for marketing independently-made feature films are at least as high as those for the major distributors, whose films for the most part have larger box office gross receipts.

Production starts in the motion-picture industry declined from 226 in 1977 to 205 in 1981. Independent starts declined in 1980 and stabilized in 1981 at the lowest number since 1976.

With the growth of home video, the trend in the motion-picture industry is toward a distribution system that favors rentals rather than sales of video cassettes. The eight largest producers of motion-picture films maintain film libraries worth well over $2.5 billion. One of these major firms is the single largest producer of recorded video tape for amateur use in the United States. Several other majors are also involved in this end of the distribution market. The reissue policy of motion pictures into the ancillary video market ranges from simultaneous distribution to theaters and the video cassette market, to indefinite postponement of video licensing as the company continues to re-release the film to theaters at regular intervals. The latter case is particularly true of certain animated feature-length films.

U.S. producers' shipments of phonograph records and related sound recordings increased from an estimated $1.21 billion in 1977 to an estimated $4.47 billion in 1981, due in part to higher unit prices of records and recorded tapes. In terms of quantity, producers' shipments of recorded music have been on a downward trend since the peak year of 1978. Records and tapes shipped by domestic producers declined from 726 million units in 1978 to 594 million units in 1981.

Several factors have contributed to this downturn in the record and recorded tape industry. The advent of electronic video games is estimated by industry sources to be siphoning off as much as $1 billion a year in potential record sales. It is claimed that another $1 billion a year in retail sales is being lost to home taping. Counterfeiting (the outright copying of a record or tape and its packaging) is a chronic problem which industry sources estimate took at least $800 million away from commercial sales of records and tapes in 1981. Piracy (copying recorded material and selling if without any attempt made at counterfeit packaging) is estimated to have cost the recording industry another $200 million in legitimate retail sales.

Data are not available concerning the domestic production of tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus for which no corresponding or alternative article is manufactured in the United States. Such production is believed to be small.

U.S. producers' shipments of electronic hearing aids are estimated to have slipped from $58 million to $50 million during 1977-81. Industry sources indicate that domestic manufacturers have lost some market share to imports from Europe.

U.S. producers' shipments of artificial limbs and braces expanded from approximately $46 million to $105 million during 1977-81, with much of the growth caused by inflation and higher-cost technology. Technological innovations have improved the quality of some prosthetic devices.

Data are not separately available concerning the production of other non-therapeutic or diagnostic articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons.

U.S. imports [11]

U.S. imports of printed matter, valued at about $500 million in 1981, were relatively insignificant compared with domestic production. Imports of catalogs, drawings and plans, and photographs and certain pictorial matter were also a small potion of domestic consumption of these products with combined imports valued at about $62 million in 1981 (table 3).

The leading sources of imports in 1981 were Canada for catalogs, drawings and plans, and the United Kingdom for photographs and certain pictorial matter (table 4). Trade in printed matter is primarily because of unique content rather than economic benefit.

The value of imports of exposed motion-picture film, related sound recordings, and recorded video tape for distribution in the United States is significant in relation to the value of domestic production, and much less than that of exports. Imports increased from $17.5 million in 1977 to $35.2 million in 1980 before declining to $30.9 million in 1981.[12] Motion-picture films make up the greater part of these imports, averaging about 80 percent of the total during 1977-81. The suppliers of imported films vary depending upon whether U.S. pictures are filmed on location (which is determined in part by the foreign exchange rate) and the box office success of foreign productions in the United States. The leading sources of imports by TSUS number are shown in table 4.

U.S. imports of phonograph recorus and related sound recording increased from $30.4 million in 1977 to $60.6 million in 1981.[13]

Imports of phonograph records under TSUS item 724. 25 increased from $24.3 million in 1977 to $49.2 million in 1981. The import data for 1978-79 should be used with caution as imports from France during this period were recorded at 62 million records valued at $4.1 million. Since this computes to an average unit value of only 7 cents each, a substantial proportion of these records was probably either miscounted or misclassified. The United Kingdom, Canada and the Netherlands were the major sources of imports in 1981.

Canada and the United Kingdom are also the leading suppliers of sound recordings on magnetic tape (TSUS item 724.40), which increased erratically from $6.1 million in 1977 to $11.4 million in 1981. During the period 1977-81 imports of sound recordings were a small factor in the domestic market and remained much smaller than exports.

Many of the imported phonograph records consist of classical recordings (principally from the United Kingdom), which often sell at a slightly higher price than the domestic product. Other imports consist of recordings of ethnic or folk music which are not produced in the United States because of the small demand.

Data are not available concerning the volume of imports of tools specially designed to be sued for the maintenance, checking, gauging or repair of instruments or apparatus for which no corresponding or alternative article is manufactured in the United States. In addition, information is unavailable concerning the largest importers of such tools. However, imports are believed to be small.

Imports of hearing aids (TSUSA item 709.5020) grew from $11.3 million to $17.4 million during 1977-81 (table 3). Three-quarters of these hearing aids contained some U.S.-made components and entered under the provisions of TSUS item 807.00. Denmark was the leading source in 1981, supplying 42 percent of the total, followed by West Germany and Switzerland, with shares of 18 percent and 17 percent, respectively (table 4). Imports of parts of hearing aids (TSUSA item 709.5040) almost tripled during 1977-81, rising from $1.1 million to $3.0 million. Together, the United Kingdom, West Germany, Denmark and Switzerland accounted for 91 percent of the total. The largest importers of hearing aids are Oticon (Summerset, N.J.), Seamens G.E. (Union, N.J.) and Rexton-Bommer A.G. (Schiller Park, Illinois).

Imports of bone and joint prostheses and certain attaching devices (TSUS item 709.56) expanded from $5.1 million to $10.4 million during 1977-80, then slipped to $8.1 million in 1981 (table 3). Switzerland was the principal source in 1981, supplying 50 percent, followed by the United Kingdom with 22 percent, and West Germany with 12 percent (table 4). Prosthetic eyes and braces for artificial limbs are estimated to account for approximately 10 percent of the imports under TSUS item 709.57. Imports under this classification totaled $8.8 million in 1981, with West Germany accounting for 45 percent. The largest U.S. importers of prosthetic goods are

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[11] The value of U.S. imports for consumption, during the period 1977-81, for the items referenced in this section are listed in table 3. The leading sources, in 1981, for the items referenced in table 3 are listed in table 4.

[12] Includes TSUS items 724.05, 724.10, 724.12, 724.15 and 724.20.

[13] Includes TSUS items 724.25, 7224.30, 724.35 and 724.40.

Otto Bock Orthopedic Industry, Inc. (Minneapolis, Minnesota), Daw Industries (Minnetonka, Minnesota), Dun-Fillauer Medical, Inc. (Chattanooga, Tennessee), and Hosmer-Dorrance Corp. (Campbell, California).

Statistics are not separately available regarding imports of other nontherapeutic or diagnostic articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons.

Imports of the various educational, scientific, and cultural articles provided for in TSUS item 870.30 averaged $10 million during 1977–81 (table 3). The leading source in 1981 was Norway, which provided 45 percent of the total (table 4).

U.S. exports

U.S. exports of catalogs, drawings and plans, and photographs and certain pictorial matter (exposed film) were valued at a combined total of $56.3 million in 1981, up from $34.6 million in 1978[14] (table 5). The largest of these categories, catalogs (schedule B item 270.3085), increased from $12.3 million to $21.8 million between 1978 and 1981. The major export markets were Canada, Japan, and the United Kingdom. Exports of exposed film (schedule B item 274.9520) increased from $14.0 million in 1978 to $19.6 million in 1981. The major export markets were Canada, Japan, the United Kingdom, and West Germany. Exports of drawings and plans (schedule B item 273.4000) increased from $8.3 million in 1978 to $14.9 million in 1981. The leading export markets were Canada and the U.S.S.R.

The United States is a substantial net exporter of motion picture films, related sound recordings, and recorded video tape. The value of these exports increased steadily from $67.9 million in 1978 to $107.4 million in 1981.[15] The bulk of these exports were motion picture films (schedule B items 724.0110–.0180) which increased from $49.6 million to $74.0 million during 1978–81, or by about 49 percent (table 5). The declared value of an exported feature print merely represents the cost of making that print from a negative. This is invariably a small portion of what these may actually earn for domestic producers. Foreign rentals have accounted for between 40 and 50 percent of the global earnings of motion picture films in recent years, and thus make substantial contributions toward the amortization of the costs of producing and marketing films.

Estimated remittables[16] for U.S. film rentals abroad have risen from $586.2 million in 1977 to over $915.8 million in 1980, reaffirming the United States as the world's largest exporter of motion-picture films. There are approximately 75 countries to which the U.S. exports motion-picture films, the most important being the major industrialized nations which account for an estimated 45 percent of total foreign remittances. The top 15 markets for U.S. film exports account for about 75 percent of remittances from foreign film rentals.

Exports of recorded magnetic video tape (schedule B item 724.1200) decreased from $14.6 million in 1978 to $14.0 million in 1979, and then climbed to $28.9 million in 1981 (table 5). The export market for recorded video tape is influenced by sales of home video systems and the titles available from distributors. The licensing of major motion pictures to video distributors varies according to each picture's box office success and the policy of the company owning the negative.

Exports of sound recordings for use in connection with motion-picture exhibits (schedule B items 724.2025–.45) were negligible during 1978–81, increasing irregularly from $3.7 million to $4.5 million (table 5).

The major markets for U.S. exports of phonograph records, which increased in value during 1977–81, were Japan and the United Kingdom. In terms of value, exports of phonograph records (schedule B items 724.2620–.40) increased from $66.4 million in 1977 to $96.5 million in 1980 before declining to $87.8 million in 1981 (table 5). Exports in 1981 appear to have been held down by the strong performance of the U.S. dollar against the British pound, West German mark, and the Italian lira. Since the record industry generally undertakes little capital construction and does not borrow heavily overseas, there is no built-in buffer of protection from currency devaluations.

Exports of other sound recordings (schedule B items 724.4420–.40), which consist primarily of recorded audio cassettes and computer programs, increased from $23.3 million in 1977 to $81.7 million in 1981.

Although there are no data available on U.S. exports of tools specially designed to be used for the maintenance, checking, gauging, or repair of instruments or appara-

[14] Includes schedule B items 270.3085, 273.4000 and 274.9520.
[15] Includes schedule B items 724.0110–.0180; 724.1200 and 724.2025–.45.
[16] Remittables refers to earnings which may be, but are not necessarily, repatriated.

tus for which no corresponding or alternative article is manufactured in the United States, exports are believed to be negligible.

Exports of hearing aids and parts thereof (schedule B item 709.5000) grew from $9.5 million to $15.2 million during 1978–81 (table 5). The principal exporters are Telex Communications, Inc. (Minneapolis, Minnesota), Starkey Labs, Inc. (Minneapolis, Minnesota), and Dahlberg Electronic (Golden Valley, Minnesota).

Exports of bone and joint prostheses and various internal fixation appliances (schedule B item 709.5600) rose from $29.5 million to $29.5 million to $51.1 million during 1978–81 (table 5). The export category under which artificial eyes and certain artificial limb braces are classified increased by 44 percent during 1978–81. The chief exporters are Becker Orthopedic Appliance Co (Troy, Michigan), Durr-Fillauer Medical, Inc. (Chattanooga, Tennessee), Hosmer-Dorrance Corp. (Campbell, California), Kingsley Manufacturing Co. (Costa Mesa, California), Pope Brace (Greenwood, South Carolina) and U.S. Manufacturing Co. (Pasadena, California).

No statistic are available concerning exports of other non-therapeutic or diagnostic articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons.

Apparent U.S. consumption

U.S. consumption of catalogs, drawings and plans, and photographs and other pictorial matter is basically supplied by domestic production. Annual consumption data are not available, but it is estimated to be almost equal to annual production or about 5 percent of the annual value of receipts of the U.S. commercial printing industry.

U.S. consumption, as well as production, exports, and imports, of motion-picture films cannot be accurately measured because of the nature of the statistical data available. The U.S. market for these products, however, is known to be substantial and is expanding mainly as a result of the continuously increasing demand for video-taped films for use on home video systems. Estimated apparent consumption in the United States increased from $304.9 million in 1977 to $488.5 million in 1981, based on the costs of producing prints from negatives.

Gross receipts from theater admissions increased from $2.4 billion in 1977 to an estimated $3.0 billion in 1981 due to higher ticket prices, which reached an estimated average of $2.90 in 1981. Theater admissions averaged just over 1 billion people a year during this period with a high of 1.13 billion in 1978 and a low of 1.02 billion in 1980. Foreign films garner only a negligible portion of the U.S. market and their appeal generally is limited to small portions of the movie-going public in highly urbanized areas of the country.

Annual U.S. consumption of phonograph records and other sound recordings has increased only slightly from 1977 to 1981. It is estimated that apparent consumption averaged just over $1 billion a year during this period with the ratio of imports to consumption increasing from 3 to almost 5 percent.

No information is available concerning the apparent U.S. consumption of tools specially designed for the maintenance, checking, gauging, or repair of instruments or apparatus for which no corresponding or alternative article is manufactured in the United States. However, it is believed that imports supply most, if not all, of U.S. consumption, since the machines are also imported.

The decline in the value of apparent U.S. consumption of hearing aids from approximately $61 million to $52 million during 1977–81 overstates the actual decrease. The average unit value of imported hearing aids fell from $70.01 to $68.67 between 1979 and 1981; meanwhile, the share of apparent consumption supplied by imports rose from 18 to 33 percent during 1977–81. Industry sources state that prices of U.S.-made hearing aids have not risen to absorb growing costs.

Apparent U.S. consumption of artificial limbs and internal fixation devices grew from approximately $26 million in 1977 to $62 million in 1981. The share of consumption accounted for by imports dropped from 19 to 8 percent during the period.

Data are not available regarding the consumption of other articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons. It is believed, however, that U.S.-made articles supply the bulk of consumption.

Potential annual loss of revenue

Revenue losses from the proposed changes to schedule 2, part 5 as to catalogs, and drawings and plans are likely to be minimal. Total annual revenue generated through duty collection in 1981 was about $650,000. Revenue losses from the addition of proposed duty-free item 274.67, affecting current TSUS item 274.7040 (other photographs), would likely be somewhat greater than that for catalogs and drawings, if imports continue at recent levels. Total annual revenues generated through

duty collection for photographs and certain pictorial matter was about $550,000 in 1981.

The potential annual loss of revenue resulting from duty-free treatment of motion-picture films and sound recordings would be approximately $3 million. It is estimated that 70 percent of this loss would be attributable to duty-free entry of phonograph records, 12 percent to motion-picture films, and 7 percent to recorded magnetic video tape.

The current schedule 8 items affected by this legislation are now free of duty. However, the proposed expanded scope of certain schedule 8 items would result in potential losses of revenue from articles currently imported under dutiable schedule 7 TSUS items. These dutiable items currently provide for such imports as hearing aids and other items for the handicapped. The potential loss on articles currently entering under TSUS item 709.50 (hearing aids and parts thereof), is estimated at $1.1 million annually; the loss in TSUS item 709.56 (bone and joint prostheses), at $1.2 million; and the loss in TSUS item 709.57 (other prosthetic equipment), at about $100,000.

Thus, the total revenue loss which is likely to result from enactment of this legislation is approximately $6.7 million per year.

Technical comments

It is suggested that the phrase "Appendix to the" on line 10 of page 4 of the bill be deleted. Section 4 gives the President the authority to "narrow the scope of, or place conditions upon, the duty-free treatment accorded under *section 7, section 8* or section 3 as it relates to temporary duty-free treatment of articles covered by those sections. . . . " (Emphasis added). Sections 7 and 8 provide for permanent rather than temporary changes to the TSUS and would therefore not appear in the Appendix to the TSUS. Our suggested amendment would give the President the authority to restore duty-free treatment to the subject articles in the body of the TSUS as well as in the Appendix, as appropriate.

The indentations for the proposed provisions set forth in section 8(b) of the bill are incorrect. The material below line 15 on page 7 of the bill and continuing on the top of page 8 should be amended to read as follows:

"Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:

ARTICLES FOR THE BLIND

870.50	Books, music, and pamphlets, in raised print, used exclusively by or for them.	Free	Free
870.55	Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.	Free	Free
870.60	Other	Free	Free", and

Finally, in order to clarify the date on which the protocol would enter into force, "or" should be deleted from line 15 on page 2 and "and" inserted in lieu thereof.

APPENDIX A

Tables

Table 1.--Articles subject to the various products in the Florence Agreement: U.S. rates of duty, as TSUS items, 1982

GSP 1/	TSUS item No.	Description	Present rate of duty 2/	Negotiated rate of duty 2/	Present rate of duty
		Printed catalogs relating chiefly to current offers for the sale of United States products:			
b	270.45	Chiefly or almost wholly of foreign embossings	3.4% ad val.	Free	.5% ad val.
b	270.50	Other	3.4% ad val.	Free	15% ad val.
	270.65	Printed catalogs, price lists, or trade notices, relating to offers, by a person whose principal place of business or home (his residence if an individual) is not in the United States, or by such persons of a foreign country or to persons foreign or international transportation or commercial communication services	Free		Free
		Architectural, engineering, commercial, or commercial drawings and plans, whether originals or reproductions printed on sensitized materials or any photographic process:			
	273.05	Produced over 20 years before importation	Free		Free
		Produced not over 20 years before importation:			
A	273.30	Blueprints or designs for use in the manufacture of floor coverings, textiles, wall coverings, or wall paper	1.5% ad val.		20% ad val.
A	273.35	Other	2.5% ad val.	Free	15% ad val.
		Photographs, engravings, etchings, lithographs, and wood cuts, and pictorial matter produced by relief or stencil printing process, all the foregoing, whether bound or not bound, and not specially provided for:			
	274.50	Printed over 10 years at time of importation	Free		Free
		Printed not over 20 years at time of importation			
A	274.60	Lithographs on paper:			
		Less than 0.020 inch in thickness	1.5¢/lb. (8.5% ad val./ 3/	Free	30¢/lb. (6.6% ad val./ 3/
		[Postcard]			
		[Other]			
b	274.63	Over 0.020 inch in thickness	1.5¢/lb. (8.5% ad val./ 3/	Free	8.7¢/lb. (7.8% ad val./ 3/
b	274.70	Other	3.7% ad val.	1.1% ad val.	15% ad val.
b	709.30	Sewing aids and parts thereof	3.3% ad val.	0.7% ad val.	15% ad val.
A	709.54	Hooks and eyes; pressfasteners, hook plates, screws, and nails, and other metallic fixation devices and appliances	6% ad val.	1.2% ad val.	15% ad val.
A	709.57	Other artificial limbs, eyes and other prosthetic articles (except teeth and dentures); orthopedic appliances, surgical belts, trusses, and similar articles; splints and other fracture appliances	8.5% ad val.	3.8% ad val.	40% ad val.
		Exposed motion-picture film:			
A	774.07	Newsreels	Free		Free
b	774.10	Other	0.5¢/lin. ft. (1.7% ad val./ 3/	Free	2¢/lin. ft. (17.5% ad val./ 3/
A	774.13	Recorded magnetic video tape	0.35¢/lin. ft. (2.5% ad val./ 3/	0.2¢/lin. ft. (2.0% ad val./ 3/	1¢/lin. ft. (12.0% ad val./ 3/
	774.15	News sound recordings on current events subject	Free		Free
A	774.20	Sound recordings for motion-picture exhibition	0.25¢/lin. ft. (4.2% ad val./ 3/	0.2¢/lin. ft. (2.2% ad val./ 3/	1¢/lin. ft. (10.7% ad val./ 3/
A	774.23	Photographic records (except those in 774.15)	4.5% ad val.	1.7% ad val.	30% ad val.
A	774.30	Master records for use in the manufacture of sound records for export	Free		Free
		Sound recordings and magnetic recordings, n.e.s.p.f.:			
A	774.35	Recorded on wire	0.35¢/lin. ft. (2.7% ad val./ 3/	0.2¢/lin. ft. (0.25% ad val./ 3/	1¢/lin. ft. (9.2% ad val./ 3/
A	774.40	Recorded on any medium other than wire	0.9¢/sq. ft. (1.3% ad val./ 3/	0.5¢/sq. ft. 3/ (1.2% ad val./ 3/	6¢/sq. ft. (42.6% ad val./ 3/
	815.30	Artificial limbs and limb braces imported solely for the personal use of a specified person and not for sale otherwise than for the use of such person	Free		Free
	918.10	Articles for the blind: Books, music, and phonorecords, in raised print, used exclusively for them	Free		Free
	918.18	Braille tablets, typewriters, and special apparatus, machines, and styluses, and types for them and so heretofore exclusively	Free		Free
	978.30	Educational cinematographic film, videotape motion-picture film or still pictures of which and pictures have been recorded; cinematographic slides; transparencies; sound recordings; reception disc-tapes; models; charts; maps; globes, and posters; all of the foregoing which are determined to be visual or auditory materials in accordance with headnote 1 of this part	Free		Free

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP).

2/ Rate as effective Jan. 1, 1982. The rates of duty in rate of duty column numbered 1 are "most-favored-nation" (MFN) rates and are available to imports products from all countries except those Communist countries and areas receiving a general treatment (if) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "CBI" rate of duty column.

3/ Final rate negotiated under the Tokyo round of the Multilateral Trade Negotiations (MTN), to be achieved through 4 annual stages each reductions effective Jan. 1, 1987. The rates of duty in rate of duty column "2DC" are preferential rates reflecting the full U.S. MTN concession rate for a particular item without staging, and are available to products of the least developed developing countries designated as general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "2DC" column for a particular item, the rate of duty provided in column numbered 1 applies.

4/ For specific and compound rates, the average ad valorem equivalent, based on the value of local imports in 1981 is shown in parentheses.

5/ Rate effective Jan. 1, 1986.

Note.--For the secondary description, see excerpt from the Tariff Schedules of the United States Annotated (1982) (TSUSA) in app. A, esp. A also contains a table showing the correlation between rate of duty and the TSUS column rate of duty. A concordance of the Tariff Schedules of the United States (TSUS) items included in this summary with related descriptions in correction, import, and other import administrative is found in app. B.

Table 2.--Articles subject to the Nairobi protocol to the Florence Agreement: U.S. rates of duty, past, present and negotiated

Item	Rates from which staged	Rate of duty 1/ effective with respect to articles entered on and after January 1--							
		1980	1981	1982	1983	1984	1985	1986	1987
270.45	1.5% ad val	1.3%	1.1%	0.9%	0.8%	0.6%	0.4%	0.2%	Free.
270.50	3.5% ad val	3.1%	2.6%	2.2%	1.8%	1.3%	0.9%	0.4%	Free.
273.50	1.5% ad val	1.5%	1.5%	1.5%	1.5%	1.4%	1.4%	1.4%	1.4%
273.55	4% ad val	3.5%	3%	2.5%	2%	1.5%	1%	0.5%	Free.
274.65	2.5¢ per lb	2¢/lb	2¢/lb	1.5¢/lb	1¢/lb	1¢/lb	0.5¢/lb	Free	Free.
274.70	4% ad val	3.9%	3.8%	3.7%	3.6%	3.4%	3.3%	3.2%	3.1%
709.50	6% ad val	5.8%	5.6%	5.3%	5.1%	4.9%	4.7%	4.4%	4.2%
709.56	18% ad val	16.7%	15.3%	14%	12.6%	11.3%	9.9%	8.6%	7.2%
709.57	10% ad val	9.5%	9%	8.4%	7.9%	7.4%	6.9%	6.3%	5.8%
724.10	0.48¢ per lin ft	0.42¢/ lin ft.	0.36¢/ lin ft.	0.3¢/ lin ft.	0.24¢/ lin ft.	0.18¢/ lin ft.	0.12¢/ lin ft.	0.06¢/ lin ft.	Free.
724.12	0.4¢ per lin ft	0.37¢/ lin ft.	0.35¢/ lin ft.	0.32¢/ lin ft.	0.3¢/ lin ft.	0.27¢/ lin ft.	0.25¢/ lin ft.	0.22¢/ lin ft.	0.2¢/ lin ft.
724.20	0.5¢ per lin ft	0.46¢/ lin ft.	0.42¢/ lin ft.	0.39¢/ lin ft.	0.35¢/ lin ft.	0.31¢/ lin ft.	0.27¢/ lin ft.	0.24¢/ lin ft.	0.2¢/ lin ft.
724.25	5% ad val	4.8%	4.7%	4.5%	4.4%	4.2%	4 %	3.9%	3.7%
724.35	0.4¢ per lin ft	0.37¢/ lin ft.	0.35¢/ lin ft.	0.32¢/ lin ft.	0.3¢/ lin ft.	0.27¢/ lin ft.	0.25¢/ lin ft.	0.22¢/ lin ft.	0.2¢/ lin ft.
724.40	1¢ per sq. ft. of recording surface.	1¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face	0.9¢/sq. ft. of re- cord- ing sur- face.

1/ The symbol "%" indicates percent ad valorem. The symbol "/" indicates per stated unit of quantity.

Table 3 --Articles subject to the Nairobi protocol to the Florence Agreement: U.S. imports for consumption, by TSUSA items, 1977-81

(In thousands of dollars)

TSUSA item No.	1977	1978	1979	1980	1981
Printed catalogs:					
270.4500	607	639	528	575	663
270.5000	3,167	6,381	6,622	9,651	11,601
270.8500	6,934	10,413	12,778	14,240	15,086
Drawings and plans:					
273.4500	141	14	16	86	24
273.5000	544	857	720	526	594
273.5500	2,128	3,902	3,352	5,696	4,906
Photographs:					
274.5000	944	2,639	2,590	3,718	2,336
274.6000 1/	4,101	-	-	-	-
274.6020	-	1,458	1,628	2,703	4,971
274.6040	-	4,324	4,479	6,290	5,265
274.6500	662	889	1,036	545	595
274.7000 2/	11,605	-	-	-	-
274.7020	-	1,046	1,638	1,834	1,683
274.7040	-	10,752	12,356	14,335	14,596
Hearing aids:					
709.5020	11,342	15,141	16,803	17,578	17,374
709.5040	1,139	1,651	1,726	2,495	3,029
Bone and joint and other prosthetic equip.:					
709.5600	5,061	8,198	9,384	10,384	8,057
709.5700	3,431	6,992	7,828	7,759	8,827
Motion-picture film:					
724.0500	11	8	13	4	6
724.1000	14,575	16,984	17,270	29,061	21,097
724.1200	1,575	1,370	2,329	3,732	7,646
Sound recordings:					
724.1500	37	6	8	13	3
724.2000	1,290	1,195	1,489	2,367	2,158
724.2500	24,297	39,145	34,586	35,519	49,150
724.3000	13	4	8	23	6
724.3500	2	7	7	5	21
724.4000	6,127	9,777	9,079	12,993	11,394
Artificial limbs and braces:					
825.0000	3/	3/	3/	3/	3/
Articles for the blind:					
826.1000	3/	3/	3/	3/	3/
826.2000	3/	3/	3/	3/	3/
Certain developed photographic film, etc.:					
870.3000	7,078	10,915	10,017	11,149	10,432

1/ In 1978 item 274.6000 became items 274.6020 and 274.6040.
2/ In 1978 item 274.7000 became items 274.7020 and 274.7040.
3/ Statistical data are not collected for these items.

Source: Compiled from official statistics of the U.S. Department of Commerce, Report EM-146.

Table 4.--Articles subject to the Nairobi Protocol to the Florence Agreement: U.S. imports for consumption, by leading sources, and by chief column 2 source, 1981

(Value in thousands of dollars)

TSUS or TSUSA item No.	Rank 1		2		3		4		5		Column 2		
	Source	Value	Source	Value	Source	Value	Source	Value	Source	Value	Total	Chief source	Value
270.45	Canada	234	Japan	148	West Germany	82	Switzerland	56	Italy	43	-	-	-
270.50	Canada	10,744	Switzerland	514	Japan	167	United Kingdom	41	West Germany	39	-	-	-
270.85	Japan	3,480	United Kingdom	2,461	West Germany	2,257	Canada	1,382	France	1,141	1	U.S.S.R.	1
273.45	United Kingdom	9	West Germany	5	Venezuela	3	Japan	2	Netherlands	2	-	-	-
273.50	France	279	Japan	133	United Kingdom	76	West Germany	50	Canada	22	-	-	-
273.55	Canada	2,653	Japan	473	United Kingdom	373	West Germany	315	Korea	240	-	-	-
274.50	United Kingdom	1,303	France	449	West Germany	264	Japan	110	Canada	62	-	-	-
274.6020	Japan	1,989	Netherlands	785	France	627	United Kingdom	491	Canada	491	3	Czechoslovakia	3
274.6040	Italy	1,485	United Kingdom	788	France	735	Canada	532	Japan	439	1	East Germany	1
274.65	Japan	195	Canada	104	West Germany	82	France	59	Colombia	47	-	-	-
274.7020	Canada	279	West Germany	241	Japan	184	Sweden	169	France	139	2	U.S.S.R.	2
274.7040	United Kingdom	3,772	Canada	2,591	Japan	1,649	Italy	1,254	Switzerland	853	43	U.S.S.R.	43

See footnotes at end of table.

Table 4.--Articles subject to the Nairobi Protocol to the Florence Agreement: U.S. imports for consumption, by leading sources, and by chief column 2 source, 1981--Continued

(Value in thousands of dollars)

TSUS or TSUSA item No.	Rank 1		2		3		4		5		Column 2		
	Source	Value	Source	Value	Source	Value	Source	Value	Source	Value	Total	Chief source	Value
709.5020 1/	Denmark	7,317	West Germany	3,069	Switzerland	2,909	Canada	1,592	Austria	650	-	-	-
709.5040	United Kingdom	968	West Germany	743	Denmark	612	Switzerland	426	Netherlands	116	-	-	-
709.56	Switzerland	4,052	United Kingdom	1,791	West Germany	943	France	592	Spain	401	-	-	-
709.57	West Germany	4,007	Switzerland	2,445	Netherlands	480	United Kingdom	373	Italy	296	29	U.S.S.R.	29
724.05	West Germany	2	Japan	1	Chile	1	Canada	2/	United Kingdom	2/	-	-	-
724.10	Canada	4,475	United Kingdom	3,302	South Korea	1,986	Italy	1,937	Mexico	1,816	117	U.S.S.R.	90
724.12	India	2,056	United Kingdom	1,163	Canada	1,147	Japan	746	West Germany	673	9	U.S.S.R.	5
724.15	Taiwan	2	Canada	2/	West Germany	2/	-	-	-	-	-	-	-
724.20	United Kingdom	564	Mexico	337	Italy	237	France	203	Canada	193	4	Cuba	2
724.25	United Kingdom	17,094	Canada	7,639	Netherlands	7,061	West Germany	6,294	Japan	4,349	107	Czechoslovakia	70
724.30	Australia	2	Canada	2	United Kingdom	1	Mexico	2/	-	-	-	-	-
724.35	United Kingdom	10	Taiwan	6	Mexico	2	Canada	1	Japan	1	-	-	-
724.40	Canada	3,701	United Kingdom	1,957	Japan	1,505	West Germany	978	South Korea	619	4	U.S.S.R.	3
870.30	Norway	4,727	Canada	1,517	West Germany	1,285	Denmark	846	United Kingdom	725	-	-	-

1/ $12.9 million of the total $17.4 million entered under the provisions of TSUS item 807.00.
2/ Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce, Report IM-146.

Table 5.--Articles subject to the Nairobi protocol to the Florence Agreement: U.S. exports, by schedule B items, 1978-81

(In thousands of dollars)

Schedule B No.	1978 1/	1979	1980	1981
Catalogs:				
270.3085	12,262	13,002	16,580	21,846
Drawings and plans:				
273.4000	8,289	13,652	11,560	14,894
Film, exposed:				
274.9520	14,044	17,170	17,128	19,558
Hearing aids:				
709.5000	9,521	11,627	14,255	15,194
Bone and joint prosthesis:				
709.5600	29,492	35,832	42,767	51,079
Other artificial limbs:				
709.5700	24,187	24,474	30,382	34,715
Exposed motion picture films:				
724.0110-.0180	49,588	58,001	75,920	73,983
724.1200	14,588	14,011	23,824	28,925
Sound recordings:				
724.2025-.45	3,685	3,174	2,853	4,477
724.2620-.40	66,377	89,896	96,547	87,820
724.4420	7,756	8,673	12,674	13,823
724.4440	15,560	26,464	45,115	67,871

1/ 1978 was the first year in which U.S. exports were classified under a system comparable to the TSUS format.

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPENDIX B

Sample draft of the TSUS
with the implementation of H.R. 6093

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SCHEDULE 2. - WOOD AND PAPER; PRINTED MATTER
Part 5. - Books, Pamphlets, and Other Printed and Manuscript Material

2 - 5 --
270.25 - 273.60

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
	270.25		Books not specially provided for.....	.....	Free		Free
		20	Bibles and prayer books.....	No.			
			Books (other than Bibles and prayer books):				
		40	Wholly or chiefly in language other than English.....	No.			
			Other:				
		60	Wholly or in part the work of an author who is a national or domiciliary of the United States.....	No.			
		80	Other.....	No.			
			Printed catalogs relating chiefly to current offers for the sale of United States products:				
A	270.45	00	Wholly or almost wholly of foreign authorship.....	No.....	0.7¢ ad val.	Free	15¢ ad val.
A	270.50	00	Other.....	No.....	2.2¢ ad val.	Free	25¢ ad val.
	270.55	00	Newspapers.....	Lb.....	Free		Free
	270.63	00	Periodicals.....	No.....	Free		Free
	270.70	00	Tourist and other literature (including post cards), containing geographic, historical, hotel, institutional, time-table, travel, or similar information, chiefly with respect to places, travel facilities, or educational opportunities outside the customs territory of the United States.....	X.....	Free		Free
	270.85	00	Printed catalogs, price lists, or trade notices, relating to offers, by a person whose principal place of business or bona fide residence is in a foreign country, to sell or rent products of a foreign country or to furnish foreign or international transportation or commercial insurance services.....	X.....	Free		Free
	270.90		Catalogs of films, recordings or other visual and auditory material of an educational, scientific or cultural character.		Free		Free
	273.10	00	Music in books or sheets.....	X.....	Free		Free
A	273.30	00	Printed globes.....	X.....	7.3¢ ad val.	5.3¢ ad val.	25¢ ad val.
	273.35	00	Maps, atlases, and charts (except tourist and other literature provided for in item 270.70).....	.....	Free		Free
			Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions printed on sensitized materials by any photographic process:				
	273.45	00	Produced over 20 years before importation.....	.....	Free		Free
			Produced not over 20 years before importation:				
A	273.50	00	Suitable as designs for use in the manufacture of floor coverings, textiles, wall coverings, or wall paper.....	X.....	1.5¢ ad val.		20¢ ad val.
A	273.55	00	Other.....	X.....	2.5¢ ad val.	Free	25¢ ad val.
	273.58		Architectural, engineering, industrial or commercial drawings and plans, whether originals or reproductions.		Free		Free
	273.60	00	Manuscripts, typewritten matter, and carbon copies thereof, all the foregoing not specially provided for.....	X.....	Free		Free

Note: For explanation of the symbol "A" or "1*" in the column entitled "GSP", see general headnote 3(a).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	1/2DC	2
	274.45	00	X-ray film, exposed, whether or not developed.....	X.....	Free		Free

"(including developed photographic film, photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche and similar articles)"

			Photographs, engravings, etchings, lithographs, and wood cuts, and pictorial matter produced by relief or stencil printing process, all the foregoing, whether bound or not bound, and not specially provided for:				
	274.50	00	Printed over 20 years at time of importation.....	X.....	Free		Free
			Printed not over 20 years at time of importation:				
ADD	"	274.53	Loose illustrations, reproduction proofs or reproduction films used for the production of books.		Free		Free
			Lithographs on paper:				
	A	274.60	Not over 0.020 inch in thickness.....	.....	8¢ per lb.		30¢ per lb.
		20	Posters.....	Lb.			
		40	Other.....	Lb.			
	A	274.65	Over 0.020 inch in thickness.....	Lb.....	1.5¢ per lb.	Free	6.75¢ per lb.
ADD	"	274.67	Developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiche, and similar articles.		Free		Free
	A	274.70	Other.....	.....	3.7% ad val.	2.1% ad val.	75% ad val.
		20	Posters.....	Lb.			
		40	Other.....	Lb.			
			Printed matter not specially provided for:				
		274.73	00 Suitable for use in the production of such books as would themselves be free of duty.....	X.....	Free		Free
			Other:				
			Printed on paper in whole or in part by a lithographic process:				
	A	274.75	Not over 0.020 inch thick.....	.....	3.5¢ per lb.	Free	30¢ per lb.
		20	Posters.....	Lb.			
		40	Manifold business forms.....	Lb.			
		60	Other.....	Lb.			
	A	274.80	00 Over 0.020 inch thick.....	Lb.....	7¢ per lb.		8.75¢ per lb.
	A	274.85	00 Susceptible of authorship.....	X.....	1.9% ad val.	1.6% ad val.	25% ad val.
	A	274.90	Other.....	.....	6.5% ad val.	1.9% ad val.	35% ad val.
		20	Manifold business forms.....	Lb.			
		40	Other.....	X			

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

CSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty: 1	1.000C	2
			Subpart G. - Motion Pictures; Tape Recordings, Phonograph Records, and Other Recordings; Recording Media; Scrap and Waste Photographic Film				
			Subpart G headnotes				
			1. The provisions of items ~~724.05~~ 724.07 and ~~724.10~~ 724.22 are the only provisions in this subpart which cover photographic film on which pictures have been recorded.				
			2. For the purposes of assessing the duty on motion-picture film provided for in item 724.10, the footage of multiple film matrices of equal length, on each of which are recorded photographic images complementary to like images on the other matrices shall be the length of a single matrix only, if such matrices are imported together for producing motion-picture film, in color, of a length no greater than that of one of the imported matrices.				
	724.05	00	Motion-picture film in any form on which pictures, or sound and pictures, have been recorded, whether or not developed: Newsreels, not developed, of current events abroad	Lin.ft.	Free		Free
A	724.10		Other	.....	0.3¢ per lin. ft.	Free	3¢ per lin. ft.
		25	Feature films, 3" wd and over: Positive release prints	Lin.ft.			
		35	Other	Lin.ft.			
			Other:				
		45	Positive release prints	Lin.ft.			
		55	Other	Lin.ft.			
	724.07	00	Motion picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed.	Lin.ft.	Free		Free
A	724.12	00	Magnetic wire or tape on which pictures or pictures and sound have been recorded	Lin.ft.	~~0.05¢ per lin. ft.~~ Free	~~Duty per lin. ft.~~ Free	~~1¢ per lin. ft.~~ Free
	724.15	00	News sound recordings relating to current events abroad	K.....	Free		Free
A	724.20	00	Sound recordings (except those provided for in item 724.05) produced on photographic or magnetic film, tape, or wire, and suitable for use in connection with motion-picture exhibits	Lin.ft.	0.19¢ per lin. ft.	0.1¢ per lin. ft.	1¢ per lin. ft.
A	724.25		Phonograph records (except those provided for in item 724.15)	.....	4.5% ad val.	3.7% ad val.	20% ad val.
		20	Stereophonic and quadraphonic, 33-1/3 r.p.m.	No.			
		40	Other	No.			
	724.30	00	Sound recordings on discs of soft wax (master records), or metal matrices obtained therefrom, for use in the manufacture of sound records for export	K.....	Free		Free
	724.22	00	Sound recordings, combination sound and visual recordings, and magnetic recordings not provided for in the foregoing provisions of this subpart.	Lin.ft.	Free		Free

Note: For explanation of the symbol "A" or "AN" in the column entitled "CSP", see general headnote 11(j).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Sound recordings, and magnetic recordings, not provided for in the foregoing provisions of this subpart:				
A	724.35	00	Recorded on wire	Lin.ft.	0.32¢ per lin. ft.	0.2¢ per lin. ft.	1¢ per lin. ft.
A	724.40	00	Recorded on magnetic tape or on any medium other than wire	Sq.ft.	1.9¢ per sq. ft. of recording surface		8¢ per sq. ft. of recording surface
A	724.45		Magnetic recording media not having any material recorded thereon		9.1% ad val.	4.2% ad val.	80% ad val.
			For audio recording:				
		10	Cassettes	No.			
		20	Cartridges	No.			
		30	Other	X			
			For video or video and audio recording:				
		40	Cassettes	No.			
		50	Cartridges	No.			
		60	Other	X			
			Other:				
		65	Tape suitable for use with computers	X			
		70	Other	X			
	724.50	00	Scrap and waste photographic film fit only for the recovery of its constituent materials	X	Free		Free

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see General Headnote 3(c).

SCHEDULE 8. - SPECIAL CLASSIFICATION PROVISIONS
Part 2. - Personal Exemptions

8 - 2 - C, D
822.10 - 829.00

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
		Articles entered for the personal or family use of the following persons who are aliens on duty in the United States:			
822.10	1/	Upon the request of the Department of State, ambassadors, ministers, charge d'affaires, secretaries, counselors, and attaches of foreign embassies and legations	.....	Free	Free
822.20	1/	Members of the armed forces of any foreign country	.....	Free	Free
822.30	1/	Upon the request of the Department of State, other representatives, officers, and employees of foreign governments	.....	Free	Free
822.40	1/	Upon the request of the Department of State, persons designated pursuant to statute or pursuant to treaties ratified by the United States Senate	.....	Free	Free
		Subpart D. - Other Personal Exemptions			
825.00	1/	Artificial limbs and limb braces imported solely for the personal use of a specified person and not for sale otherwise than for the use of such person	.....	Free	Free
826.10	1/	Articles for the blind: Books, music, and pamphlets, in raised print, used exclusively by or for them	.....	Free	Free
826.20	1/	Braille tablets, cubarithmo, and special apparatus, machines, presses, and types for their use or benefit exclusively	.....	Free	Free
827.00	1/	Articles of metal (including medals, trophies, and prizes), for bestowal on persons in the United States, as honorary distinctions, by foreign countries or citizens of foreign countries	.....	Free	Free
828.00	1/	Upon the request of the Department of State, articles from citizens of foreign countries for presentation to the President or Vice President of the United States	.....	Free	Free

1/ See schedule 8 statistical headnote 1.

Item	Stat Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
		Articles imported for the use of any public library, any other public institution, or any nonprofit institution established for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts (con.):			
851.15	00	Letters, numbers, and other symbols; number cards and other arithmetical materials; printed matter; blocks and other dimensional shapes; geometrical figures, plane or solid; geographical globes; tuned bells and basic materials for understanding music; model articles and figures of animate objects; puzzles and games; flags; dressing frames; dummy clocks; bottles, boxes, and other containers or holders; all the foregoing, whether or not in sets, fabricated to specification and designed for the classroom instruction of children; and containers or holders fabricated to specification and designed for the storage of such instructional articles when not in use	X.....	Free	The column 1 rate applicable in the absence of this item
851.23	00	Sculptures and statuary	X.....	Free	Free
851.30	00	Regalia	X.....	Free	Free
851.40	00	Any textile machine or machinery, or part thereof, solely for the instruction of students	X.....	Free	Free
851.50	00	Patterns and models exclusively for exhibition or educational use at any such institution	X.....	Free	Free
		Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes:			
851.60	00	Instruments and apparatus, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States (see headnote 6 to this part)	X.....	Free	Free
851.65	00	Repair components for instruments or apparatus admitted under item 851.60	X.....	Free	Free
851.67	00	Tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus admitted under item 851.60	X.....	Free	Free
852.20	00	Wild animals (including birds and fish) imported for use, or for sale for use, in any scientific public collection for exhibition for scientific or educational purposes	X.....	Free	Free
		Articles imported for the use of an institution established to encourage the saving of human life:			
853.10	00	Lifeboats and life-saving apparatus	X.....	Free	Free
		Articles imported for the use of any nonprofit institution, whether public or private, established for educational, scientific, or therapeutic purposes:			
854.10	00	Apparatus utilizing any radioactive substance in medical diagnosis or therapeutic treatment, including the radioactive material itself when contained in the apparatus as an integral element thereof, and parts or accessories of any of the foregoing	X.....	Free	Free

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
		PART 7. - OTHER SPECIAL CLASSIFICATION PROVISIONS			
		Part 7 headnotes:			
Delete		1. No article shall be exempted from duty under item 870.30 unless a Federal agency or agencies designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character. Whenever the President determines that there is or may be profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.			
Change		①2. The provisions of items 870.40 and 870.45 do not apply to — (i) articles of textile materials; articles provided for in schedule 5; articles of leather or of fur on the skin; (ii) articles provided for in schedule 6, part 2, part 3 (subparts A through F and subpart H) of items 652.13 through 652.38, inclusive, 652.84, 652.88, 653.00, and 653.01), part 3 (except item 688.45) or part 6, but interchangeable agricultural and horticultural implements are classifiable in item 870.40 even if mounted at the time of importation on a tractor provided for in part 6B of schedule 6; (iii) ball or roller bearings, including such bearings with integral shafts, and parts thereof, provided for in items 680.13 through 680.39, inclusive; or (iv) articles provided for in item 666.00.			
Add		"2. For the purposes of items 870.50, 870.55, and 870.60— "(a) The term "physically or mentally handicapped persons" includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. "(b) These items do not cover— "(i) articles for acute or transient disability; "(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled; "(iii) therapeutic and diagnostic articles; and "(iv) medicines or drugs.".			

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
870.10	00	Records, diagrams, and other data with regard to any business, engineering, or exploration operation conducted outside the United States, whether on paper, cards, photographs, blueprints, tapes, or other media	X	Free	Free
		Nets or sections or parts of nets:			
870.20	00	Monofilament gill nets to be used for fish sampling	X	Free	Free
870.25	00	To be used in taking wild birds under license issued by an appropriate Federal or State governmental authority	X	Free	Free
870.27	00	Specimens of archeology, mineralogy, or natural history (including specimens of botany or zoology other than live zoological specimens) imported for any public or private scientific collection for exhibition or other educational or scientific use, and not for sale or other commerical use	X	Free	Free
870.30	00	Developed photographic film, including motion-picture film on which pictures or sound and pictures have been recorded; photographic slides; transparencies; sound recordings; recorded video-tape; models; charts; maps; globes; and posters; all of the foregoing which are determined to be visual or auditory materials in accordance with headnote 1 of this part	X	Free	Free
870.35	00	Patterns, models (except toy models) and wall charts of an educational, scientific or cultural character; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	X	Free	Free
870.40	00	Machinery, equipment, and implements to be used for agricultural or horticultural purposes	X	Free	The column 1 rate applicable in the absence of this item
870.45	00	Parts to be used in articles provided for in item 666.00, whether or not such parts are chiefly used in parts of such articles and whether or not covered by a specific provision within the meaning of general interpretative rule 10(ij)	X	Free	The column 1 rate applicable in the absence of this item
		Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:			
		Articles for the blind:			
870.50	00	Books, music, and periodicals, in raised print, used exclusively by or for them	X	Free	Free
870.55	00	Braille tablets, cubarithms, and special apparatus, machines, printers, and types for their use or benefit exclusively	X	Free	Free
870.60	00	Other	X	Free	Free

STATEMENT OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, and members of the Subcommittee, I am delighted to submit this testimony on behalf of H.R. 6093, which implements the Nairobi Protocol to the Florence Agreement. Copies of letters between myself and the Secretary of Commerce are attached to this statement.

The principle of the free flow of educational, scientific and cultural materials is an important one. As the Preamble to the original Florence Agreement states, the free exchange of ideas and knowledge is "vitally important both for intellectual progress and international understanding, and consequently for the maintenance of world peace."

This importance is enhanced by the application of the Agreement and the Protocol to materials intended for use by the blind and the handicapped.

The Nairobi Protocol is an extension and amplification of the Florence Agreement. Therefore, it seems reasonable to look at our experience to date with the Florence Agreement as a guide to our future actions.

The United States has been a signator of the Agreement since 1966. Our experience with it has generally been satisfactory.

There apparently has been, however, one notable exception. I am told that the European Economic Community has not fairly and fully implemented the provisions of the Agreement relating to scientific instruments (Annex D of the Agreement).

In particular, I am told that while the United States has, acting in good faith and in accord with the Agreement, eliminated tariff barriers on such scientific materials, the EEC has continued discriminatory practices against imports of Annex D scientific equipment. These practices include the categorical exclusion of such items from treatment under the Agreement (as opposed to our case by case consideration) and an unwillingness to discuss the reasons and bases for such exclusions.

The Administration has indicated an awareness of this problem. In testimony before the Senate Foreign Relations Committee, Assistant Deputy Secretary of State Ernest B. Johnston said "I understand from the Commerce Department that there is some concern amongst the manufacturers of scientific instruments." *

In his letter to me (attached), Secretary Baldrige said "I recognize the problems encountered by some manufacturers of scientific instruments."

As Mr. Edward Best told this Subcommittee on July 26, 1982 on behalf of the Scientific Apparatus Manufacturers Association, "The lack of reciprocal treatment by the European Community of instruments manufactured in the United States has seriously damaged the ability of U.S. exporters to compete for sales of scientific instruments to European non-profit institutions."

Apparently in response to these and other similar concerns, the Administration has said it will not actually deposit the instrument ratifying the Nairobi Protocol until "after a Presidential determination that the United States is receiving equitable treatment by other countries under the terms of the protocol." **

Indeed, to accommodate just such a determination, the legislation before the Committee authorizes a two and a half year temporary lifting of duties, pending the Presidential determination.

I believe such an interim period is entirely justified and necessary. Moreover, I believe it would be reasonable and appropriate for the Subcommittee to clearly express its deep concern over the need to be assured of the equal implementation of all aspects of the Florence Agreement prior to the decision to deposit the instrument of ratification of the Nairobi Protocol.

In addition, I believe the Subcommittee would be justified in recommending that any discussions with the European Economic Community or other trading partners over the implementation of the Florence Agreement begin promptly. Such discussions are often quite lengthy, and it is in everyone's interest that the conversations begin now so that they may be concluded prior to the expiration of the two and one half year interim period.

This issue is an important matter for those businesses and employees affected by the EEC's unfair policies. I appreciate the opportunity to submit this testimony.

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* Oct. 20, 1981.

** Testimony of Deputy Assistant Secretary of Commerce Paul O'Day before the Subcommittee on Trade, Sept. 16, 1982.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 19, 1982.

Hon. MALCOLM BALDRIGE,
Secretary, Department of Commerce, Washington, D.C.

DEAR MR. SECRETARY: I am writing to inquire about the Administration's view of the Nairobi Protocol and the Florence Agreement.

Businesses in my district have complained to me that the Florence Agreement's provisions relating to scientific equipment are not being fully and reciprocally enforced by the European Economic Community.

They have asked me for the rationale behind proceeding with the Nairobi Protocol if its predecessor the Florence Agreement is not being fully implemented.

In order to respond fully, I would appreciate knowing your view of these questions:

Is it your view that the EEC is complying with the terms and the spirit of the Florence Agreement?

Are you aware of difficulties faced by U.S. firms in exporting scientific apparatus to the EEC?

If the Florence Agreement has not yet been fully implemented, what is the rationale for proceeding with ratification of its successor, the Nairobi Protocol?

If actual deposit of the instrument of ratification is delayed, what would be the criteria for deciding when to formally ratify the Protocol? Would the Administration support writing such criteria into the enabling legislation now before Congress?

Thank you very much for you assistance in this matter.

Sincerely yours,

NORMAN Y. MINETA, *Member of Congress.*

SEPTEMBER 15, 1982.

Hon. NORMAN Y. MINETA,
House of Representatives, Washington, D.C.

DEAR MR. MINETA: Thank you for your letter regarding the Administration's view on implementation of the Nairobi Protocol and the enforcement of the Florence Agreement by the European Economic Community (EEC).

This Administration's view is that it is in the overall interest of the United States to assume the additional obligations of the Protocol as proposed in implementing legislation (H.R. 6093 and S. 2685). Our trade balance in products covered by the original Florence Agreement has been in our favor.

I recognize the problems encountered by some manufacturers of scientific instruments. I think the implementing legislation will induce other countries to implement the Nairobi Protocol in a manner that will make easier the expansion of world trade. We will be discussing specific problem areas with other EEC countries during the U.S. provisional implementation period.

Enclosed are detailed answers to your questions. If there are any further questions about the U.S. implementation under the Florence Agreement, your staff may wish to call Richard Seppa of our Statutory Import Programs Staff (377-3525).

Sincerely,

MALCOLM BALDRIGE, *Secretary of Commerce.*

Question. Is it your view that the EEC is complying with the terms and the spirit of the Florence Agreement?

Answer. The EEC generally has complied with the terms and the spirit of the Florence Agreement. Trade under the five annexes would appear to favor the United States significantly. Even with respect to annex D, relating to scientific instruments where some problems have been reported, imported into the EEC of eligible U.S. scientific instruments greatly outnumber U.S. firms that responded to a survey conducted by the U.S. Department of Commerce reported they encountered no major problems entering scientific instruments duty-free under the Agreement.

It should be noted that the EEC issued implementing regulations in January 1980 providing for imports under the Nairobi Protocol. Several individual EEC countries already have notified the United Nations of their ratification of the Nairobi Protocol.

Question. Are you aware of difficulties faced by U.S. firms in exporting scientific apparatus to the EEC?

Answer. We are aware of difficulties encountered by some U.S. firms in exporting to the EEC under annex D of the Agreement. Some negative decisions involving U.S. instruments are difficult to justify in terms of U.S. practices under the Agreement and there have been recurring allegations with respect to one EEC member

state that it withholds Government funding for foreign instuments thereby frustrating duty-free entry under annex D of the Agreement. Procedures in EEC member states are much less formal and open than our own. In some member states applicant institutions and their U.S. suppliers experience difficulty learning the rationale for decisions involving U.S. instruments denied duty-free treatment. The EEC interpretation of scientific instruments also is somewhat more restrictive than our own. Finally, in 1976 the EEC adopted a Community-wide test for domestic availability findings which, in our opinion, is in open contravention of the original Florence Agreement which specifies "country" of importation for this test. It should be noted that the terms of the Nairobi Protocol do permit the EEC to use a Community wide test.

Repeated attempts to secure information from U.S. companies concerning specific problems they have experienced in the EEC by and large have been ignored. Apparently U.S. firms with vigorous sales into the EEC or which enjoy what they consider commanding technological advantages over their European competition simply are not interested in the Agreement since entries under it probably account only for a small fraction of their total export sales volume. Others may be multinationals with European subsidiaries whose interests are better served by current EEC practices. Finally, many U.S. firms rely on European agents or distributors for EEC sales and either are not informed of or are complacent about annex D problems. Their criteria is whether they get sufficient business, not whether the articles enter free of duty.

Despite these problems under annex D, we would have to say that the EEC has generally complied with the Agreement. We remain disturbed by the exceptions, of course, and will continue pressing the EEC to adopt more uniform and open procedures. We expect that U.S. provisional implementation of the Protocol will aid us in receiving satisfactory results from the continuing bilateral discussions.

Question. If the Florence Agreement has not yet been fully implemented, what is the rationale for proceeding with ratification of its successor, the Nairobi Protocol?

Answer. The Administration thinks that, on balance, it is in the interest of the United States to implement the Nairobi Protocol. The implementing legislation submitted by the Administration leaves open the question of U.S. ratification of the Nairobi Protocol for a period of up to 2½ years. During that time we will be reviewing implementation by our trading partners to decide if it continues to be in the U.S. interest to implement the Protocol.

The United States enjoys a favorable balance of trade with the EEC under the Florence Agreement, especially in books and audio-visual materials. The domestic book publishing, sound recording and motion picture industries have registered with the Administration strong interest in moving as quickly as possible toward U.S. implementation of the Protocol and eventual ratification. Even in the scientific instruments field, where some problems have occurred, the major U.S. trade association does not object to U.S. ratification of the Protocol provided adequate measures are taken to ensure basic reciprocity from our major trading partners.

In our opinion, the draft bill submitted to the Congress is flexible enough to accommodate the various interests of U.S. industry. We must also consider the costs of further delay. It is now more than five years since the Protocol was opened for signature. Given the benefits our domestic industries expect to flow from generalized implementation of the Protocol, each delay means the postponement of employment-generating investment and business activity of some significance for the Administration's national economic recovery program.

Question. If actual deposit of the instrument of ratification is delayed, what would be the criteria for deciding when to formally ratify the Protocol? Would the Administration support writing such criteria into the enabling legislation now before Congress?

Answer. The Administration will be looking at various criteria in deciding whether it continues to be in the economic interests of the United States to ratify the Nairobi Protocol. In determining whether or not to ratify the Protocol and continue the duty-free treatment provided for in the implementing legislation, the President will take into account: the level of obligations assumed by our trading partners under the Protocol, the method of implementation of the obligations, and the benefits of U.S. ratification for U.S. consumers and exporters.

Testimony bearing on the Administration's intentions was placed in the record during Senate advice and consent hearings in October 1981. We expect to reiterate our views in any subsequent hearings in the House of Representatives. We think this legislative history will provide adequate guidance to the Administration as we seek to accomplish the purposes of the Protocol on an equitable basis.

STATEMENT OF BARBARA D. MCGARRY, FOR THE AMERICAN FOUNDATION FOR THE BLIND, INC.

On behalf of the American Foundation for the Blind, I appreciate the opportunity to express our organization's strong support for H.R. 6093, which implements the Nairobi Protocol to the Florence Agreement by widening the list of duty-free articles that may be imported by countries signatory to the Protocol.

Founded over 60 years ago under the auspices of Helen Keller, the American Foundation for the Blind has long recognized the importance of aids for the blind in achieving individual development. From our headquarters in New York City, foundation officials followed closely the deliberations of UNESCO's general conference in 1946, which led to the original Florence (Italy) Agreement in 1950. As members of your committees know, the Florence Agreement, ratified by the U.S. in 1966 as one of 90 signatories, provided for duty-free importation by any ratifying country of a specific list of educational, scientific and cultural materials: and in addition, provided duty-free treatment of imported articles and aids for the blind. In 1966, just as in the proposed legislation before your committee today, the United States Government required enactment of implementing legislation to safeguard our own trading interests, before ratification of the Florence Treaty.

In both its domestic and overseas operations, the American Foundation for the Blind has developed and supported the utilization of aids and appliances specifically designed for the blind of all ages. We have helped to develop a national network of specialists in early childhood develolpment and special education for blind children; in orientation and mobility training and job skills development for the employable-age blind worker; and in independent living skills for the older blind persons. Special educational and training aids ("Articles for the Blind") have helped make these goals achievable.

Throughout our various ongoing projects, we have noted the gradual emergence of a phenomenon—perhaps, thankfully, because of many countries' increased emphasis on the prevention of blindness, with the growing awareness that half of all blindness is preventable. As a result, there is a levelling off, in relation to total population increase, of blindness as an isolated sole disability. Instead, there is growing evidence of blindness or a visually handicapping condition as one of an individual's multiple disabilities. At the present time, for instance, there are about four million handicapped school children in the United States—half the number that Congress has estimated are in need of special education—whose education is being assisted through the Education for the Handicapped Act. However, the American Printing House for the Blind reported last year that only some 30,000 legally blind children were provided with braille slates, textbooks, and other learning materials. In addition, state-operated schools for the blind are now enrolling a majority of students whose blindness is one of several disabilities.

With regard to the employable age group, this same development led the American Foundation for the Blind to urge Congress to expand a law providing special job-training for the blind—the "Wagner-O'Day Act"—so that it might include other handicapped trainees as well. The result was the "Javits-Wagner-O'Day Act Amendments," which mandates preferential purchase by our government of certain articles manufactured "By the Blind and Other Severely Handicapped."

Under these circumstances, we have followed with special interest the progress of the Nairobi Protocol since it was first recommended by UNESCO in 1973, with the final text approved by the UNESCO general conference in Nairobi, Kenya, in 1976, and opened for signature by the United Nations in March 1977. Successful interagency efforts to facilitate U.S. ratification of the Protocol, begun in June, 1977, resulted in the President's transmittal of the Protocol on January 19, 1981. to the U.S. Senate for its constitutionally required advice and consent, with the President's stated belief that ratification "will result in important benefits for the blind and handicapped in this country." On May 21, 1982, the Senate Foreign Relations Committee reported favorably on the Nairobi Protocol (Treaty Document 97-2) through its Executive Report 97-53. Our particular area of interest is, of course, the Protocol's expanded list of "Articles for the Blind and Other Handicapped Persons," as per the attached copy of the Protocol's "Annex E."

According to State Department testimony provided at the October 20, 1981 hearings by the Senate Foreign Relations Committee, ratification of the Nairobi Protocol, open to the same 90 countries that approved the 1950 Florence Agreement, depends in large part on American leadership in this area. In the witness's words, "many of those countries are waiting to see if the United States is interested in this instrument." At the time of the hearings, the member-countries of the European common market were entering into the agreement as a body, and several other

countries had ratified. Like the United States, the common market community is also engaged in implementing legislation to safeguard its own trading interests.

It is our understanding that, after consultation with appropriate officials of the State Department, Treasury Department, Commerce Department, and the Library of Congress, the Administration's draft bill incorporates adequate safeguards for U.S. trading interests. In introducing companion legislation (S. 2685), Senator Dole has stated, "I believe the Administration has found a prudent way to provide to handicapped persons the benefits of the Nairobi Protocol, while insuring that U.S. producers' interests are protected."

The means of accomplishing this are found in Section 2 of the bill, which gives the President authority to withhold final approval of the Protocol until he determines that adequate reciprocal duty-free treatment will be provided by other countries. The only exemption, found in Section 3, is the temporary duty-free treatment for the listed articles for the blind and other handicapped, for a period of 2½ years after enactment of implementing legislation. This amount of time is considered sufficient to insure that adequate reciprocity for all duty-free articles is achieved among signatories to the Protocol. In Section 4 of the bill, as a further safeguard, the President is authorized to reimpose current tariff rates on imported articles which are adjudged to have a "significant adverse impact" on a domestic industry.

With regard to duty-free articles for the blind and other handicapped, as indicated by the attached copy of Annex E, there would seem to be no reason why the presently favorable balance of trade could not be maintained under the expanded list, especially with the Annex's final caveat, "provided that equivalent objects are not being manufactured in the importing country." The expanded list itself is a tribute by UNESCO to the technological advances world-wide, especially in the United States, over the last quarter-century. Thirty years ago, in the field of blindness, one would not have heard the words "optacon," "laser cane," "closed circuit TV" or "reading machine"—all of which are devices well known to the blind in today's world. It is safe to say that in another quarter-century, even more dramatic advances will have been achieved to help bring equal opportunity for learning, working, and successful living for all our handicapped citizens.

With your committee's approval as a vital step toward ratification of the Nairobi Protocol, the United States can be a signatory in 1982, the year proclaimed as "The National Year of the Disabled." To paraphrase the words of that Presidential proclamation, you will have helped significantly to improve the lives of 35 million disabled Americans.

Federal Register
Vol. 47, No. 82
Wednesday, April 28, 1982

Presidential Documents

Title 3—

The President

Proclamation 4935 of April 26, 1982

National Year of Disabled Persons

By the President of the United States of America

A Proclamation

The 1981 International Year of Disabled Persons, a celebration of the achievements and strengths of disabled persons the world over, has now concluded. In that Year, we were made aware of the many accomplishments of disabled people, and we rejoiced at the number of lives that were made richer and more productive through education, rehabilitation, and employment.

The impetus gained during this celebration must not be lost. We must seize the opportunities afforded by the International Year of Disabled Persons to increase our national awareness of what remains to be done in order to assure all disabled Americans full and active participation in our society.

I call upon my fellow citizens in both the public and private sectors to join in mutual efforts to pursue the long-term goals set forth during 1981.

NOW, THEREFORE, in keeping with the aims of Senate Joint Resolution 134, and in order to continue the momentum developed in the International Year of Disabled Persons, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the year 1982 as the "National Year of Disabled Persons."

IN WITNESS WHEREOF, I have hereunto set my hand this 26th. day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-11735
Filed 4-27-82; 10:14 am]
Billing code 3195-01-M

ANNEX E

Articles for the blind and other handicapped persons

(i) All articles specially designed for the educational, scientific or cultural advancement of the blind which are imported directly by institutions or organizations concerned with the education of, or assistance to, the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, including:

(a) talking books (discs, cassettes or other sound reproductions) and large print books;

(b) phonographs and cassette players, specially designed or adapted for the blind and other handicapped persons and required to play the talking books;

(c) equipment for the reading of normal print by the blind and partially sighted, such as electronic reading machines, television-enlargers and optical aids;

(d) equipment for the mechanical or computerized production of braille and recorded material, such as stereo-typing machines, electronic braille, transfer and pressing machines; braille computer terminals and displays;

(e) braille paper, magnetic tapes and cassettes for the production of braille and talking books;

(f) aids for improving the mobility of the blind, such as electronic orientation and obstacle detection appliances and white canes;

(g) technical aids for the education, rehabilitation, vocational training and employment of the blind, such as braille watches, braille typewriters, teaching and learning aids, games and other instruments specifically adapted for the use of the blind.

(ii) All materials specially designed for the education, employment and social advancement of other physically or mentally handicapped persons, directly imported by institutions or organizations concerned with the education of, or assistance to, such persons, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, provided that equivalent objects are not being manufactured in the importing country.

STATEMENT OF THE AMERICAN LIBRARY ASSOCIATION

The American Library Association is a nonprofit educational organization of almost 40,000 librarians, trustees, educators, and other friends of libraries dedicated to the improvement of library services for all the American people. ALA has a long history of support both for the original Florence Agreement, to which the United States adhered in 1967, and for the Protocol, or supplement, since November 1976. The original Agreement has been of great benefit to libraries and their patrons in the United States and in nearly 70 other countries in reducing the costs of imported educational, scientific, and cultural materials and in simplifying the administrative procedures of importation. Similar benefits can be expected from the provisions of the Protocol, which add duty-free treatment to other articles.

Our major interest is in the provision of duty-free treatment to audio, visual, and microform material, the same treatment offered books, periodicals, newspapers, and other printed materials by the original Agreement. The audio, visual and microform materials to be given duty-free treatment are listed in Sections 6(a) and 6(b) of HR 6093. Duty-free treatment can come about in either of two ways:

(1) By Presidential proclamation for a temporary period of not more than two and a half years; or

(2) By Presidential proclamation of the date on which the Protocol comes into force as to the United States.

It is our understanding that the power given to the President to take temporary action is designed to encourage countries importing U.S. materials covered by the Protocol to take reciprocal action. We would expect that the President would promptly take temporary action to eliminate U.S. import duties on audio, visual, and microform material in view of the strong support given to the Protocol by the United States trade associations representing the producers of such materials.

We would have preferred that the implementing legislation go into effect immediately, or after a short specified number of months, as was done in the case of the implementing legislation for the original Florence Agreement—the Educational, Scientific, and Cultural Materials Importation Act of 1966, Public Law 89-651. There was some fear expressed by some U.S. producers of a few of the materials covered by the original Florence Agreement that their domestic market might be adversely affected by the elimination of the then existing low United States import duties. Experience has demonstrated that these fears were not justified, and U.S. producers

have since 1967 benefited in their export markets without suffering in their domestic markets. This experience may account in part for the support given to the Protocol by affected U.S. trade associations, which include the Association of American Publishers, the Association of American University Presses, the Information Industry Association, the Motion Picture Association of America, the National Audio-Visual Association, the National Micrographics Association, the National Music Publishers Association, and the Recording Industry Association of America.

Library groups on record in support of the Protocol to the Florence Agreement include the International Federation of Library Associations and the 1979 White House Conference on Library and Information Services which recommended elimination of trade and other barriers to the exchange of library materials and information of all kinds.

The American Library Association appreciates this opportunity to express its support for HR 6093. We hope that Subcommittee and full Committee consideration can be expedited so that HR 6093 can be scheduled for consideration in the House as soon as possible after approval of the Protocol itself, which has been favorably reported by the Senate Foreign Relations Committee in Executive Report 97-53 of May 21, 1982.

STATEMENT OF FINNIGAN CORP., LOWELL D. TURNBULL, COUNSEL

On behalf of Finnigan Corporation, counsel submits this statement regarding H.R. 6093, which would amend the Tariff Schedules of the United States to permit implementation of the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials

FINNIGAN CORPORATION

Finnigan Corporation has its headquarters at 355 River Oaks Parkway, San Jose, California. It is the largest U.S. manufacturer of mass spectrometer systems (or MS systems), which are sophisticated, computer-controlled instruments used to identify the precise nature and quantity of organic chemical substances in a sample of solid, liquid, or gas. MS systems fall within an important category covered by the Florence Agreement, namely scientific and educational instruments. A major objective of the Florence Agreement is to permit non-profit public or private scientific or educational institutions in signatory countries to import scientific instruments duty-free.

Finnigan Corporation makes substantial sales of scientific instruments within the United States and abroad, and in the course of its business has gained substantial experience with and interest in the implementation of the Florence Agreement by the United States and other parties, particularly the European Economic Community (the EEC) and its member countries.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

1. The Administration concedes that the EEC's implementation of the Florence Agreement differs significantly from that of the United States, and that as a result the U.S. scientific instruments industry has been adversely affected.

2. The net effect of the lack of reciprocity in the EEC's practices regarding duty-free treatment of scientific instruments is a significant adverse impact on U.S. interests in international trade, employment, technology transfer, and balance-of-payments, to the benefit of Europe, and the impact is felt most directly in a sector particularly important to future economic growth in this country—the manufacture of high technology equipment.

3. The Congress should insist that the Administration promptly move to correct the unfair and non-reciprocal practices of the EEC by commencing negotiations and pressing for changes that would make the EEC's implementation of the Florence Agreement consistent with that of the United States.

4. The amendment to the Tariff Schedules allowing implementation of the Nairobi protocol should not be made permanent until the president has certified to Congress that the EEC has adopted and is applying fair and reciprocal practices under the Florence Agreement.

THE EXPERIENCE OF U.S. MANUFACTURERS OF SCIENTIFIC INSTRUMENTS IN SEEKING DUTY-FREE TREATMENT IN THE EEC

For some time, Finnigan has been deeply concerned over the failure of the European Economic Community properly to carry out the terms of the Florence Agree-

ment and, in particular, the EEC's refusal to evaluate U.S.-manufactured instruments for duty-free entry into the EEC on the same fair basis as the United States evaluates European instruments for duty-free entry into the United States. The lack of reciprocal treatment by the EEC of instruments manufactured in the United States has seriously damaged the ability of U.S. companies without large multinational operations to compete for sales of scientific instruments to European nonprofit institutions. As a consequence, these U.S. companies are confronted with the choice of either withdrawing from that institutional market or establishing a manufacturing operation in the EEC in order to compete for the institutional market. Yet these same U.S. companies find that European instrument manufacturers are readily able to exploit the U.S. institutional market by relying on the duty-free tariff provisions administered in good faith by the United States in accordance with the terms of the Florence Agreement. The net effect is a significant adverse impact on U.S. interests in international trade, employment, technology transfer, and balance-of-payments, to the benefit of Europe. A dramatic example of this adverse impact is the fact that Finnigan recently was forced to buy a manufacturing operation in Europe in order to compete effectively in selling MS systems within the EEC.

Finnigan's specific complaints about the unfair application of the Florence Agreement by the EEC are based on Finnigan's extensive efforts to market its U.S.-manufactured MS systems to governmental, university, and quasi-governmental institutions in Europe. Finnigan has confronted the following obstacles:

(1) The "Use" and "Equivalency" Tests.—The Florence agreement provides for duty-free entry of scientific instruments, *inter alia*, if they are "intended exclusively for educational purposes or pure scientific research" and if instruments "of equivalent scientific value" are not being manufactured in the country of importation. In determining whether the instrument is eligible for duty-free entry and whether a domestic manufacturer makes an instrument "of equivalent scientific value," the United States applies these two tests case-by-case and focuses on the specific application planned by the institution seeking to import the instrument. By contrast, the EEC Commission can and does issue general determinations on the status of a U.S.-manufactured instrument and can and does rule that a U.S.-manufactured instrument is ineligible under all circumstances for duty-free entry into the EEC because it could be used for commercial purposes or because it is deemed to have a European-manufactured equivalent for all purposes. Both such rulings have in fact been made with respect to all models of Finnigan's MS systems.

(2) Procedural Fairness.—The EEC staff reviews applications for duty-free entry into the EEC in complete secrecy. The ruling issued is generally only one or two sentences and gives no rationale on how the decision was reached. Finnigan Corporation is not aware of any successful appeal of a denial during the last two years. The only recourse open is the expensive course of filing suit with the International Court at The Hague. By contrast, the procedure in the United States involves full public disclosure at all times; there is an administrative procedure for appeal; applications are invariably handled fairly and professionally; and most applications are approved.

THE ADMINISTRATION HAS CONFIRMED THAT U.S. COMPANIES HAVE SUFFERED FROM THE EEC'S PRACTICES

In response to questions submitted by the Senate Committee on Finance in connection with its consideration of a bill to allow implementation of the Nairobi protocol, the Administration in effect confirmed the problems described above. Although the Administration asserted its belief that "U.S. exporters are being afforded reciprocal treatment in most cases," the Administration conceded:

(1) "EEC procedures and practices with regard to imports entitled to duty-free treatment under the Florence Agreement do differ significantly from those applied by the United States."

(2) These differences "have sometimes adversely affected U.S. interests concern[ing] the scientific instruments industry."

(3) "Procedures in EEC member states are much less formal and open than our own. In some member states applicant institutions and their U.S. suppliers experience difficulty learning the rationale for denial decisions involving U.S. instruments denied duty-free treatment."

(4) "Some negative decisions involving U.S. instruments are difficult to justify in terms of U.S. practices under the agreement."

(5) "The EEC appears to use decisions on some cases as precedents for other entries rather than viewing each entry on its own merits."

(6) "The EEC interpretation of scientific instruments also is somewhat more restrictive than our own."

RECOMMENDATIONS

In light of the unfair and non-reciprocal practices applied to exports from an important part of the U.S. high technology sector—the scientific instruments industry—the Congress should use its consideration of H.R. 6093 as the occasion to insist that the Administration take corrective action. The Senate Committee on Finance addressed the concerns of U.S. exporters and stated that "in determining when to deposit the instrument of ratification," and "[i]n relation to the EEC specifically, the committee expects the President to determine whether there are open and accessible procedures at least roughly comparable to those of the United States" and to reach "as complete and detailed an understanding as can be reached on the specific tariff coverage of the various annexes of the Protocol." (Senate Report No. 97-564, p. 18). These expectations are certainly appropriate, and Congress could help ensure that they will be satisfied if it were expressly to condition a permanent amendment of the Tariff Schedules upon reaching an understanding with the EEC. The House could incorporate such a condition in H.R. 6093 by amending section 2, which deals with the effective date of the permanent tariff revision, to provide that the President must certify to Congress that (a) the EEC has established fair procedures comparable to those of the United States and (b) the EEC and the United States have reached an understanding on the specific tariff coverage or scope of the various annexes to the Protocol, before the temporary duty-free treatment can become permanent.

Such a statutory condition would give the Administration and the EEC an incentive to work out the problem of unfair practices. There is a danger that the Administration will not move promptly to correct the problem during the 2½ year period of temporary duty-free treatment, that the end of the period will near, and that in order to avoid allowing the duty-free treatment to lapse, the United States will deposit the ratification even though no satisfactory understanding with the EEC has been reached. This danger can be minimized if the Administration opens negotiations now with the EEC, the Finnigan Corporation respectfully submits that Congress should stress its expectation that the Administration will do so.

STATEMENT OF DAVID J. STEINBERG, PRESIDENT, U.S. COUNCIL FOR AN OPEN WORLD ECONOMY, INC.

(The U.S. Council for an Open World Economy is a private, nonprofit, public-interest organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any private interest.)

This statement is limited to H.R. 6093, a bill to implement the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific and Cultural Materials. Absence of a position on the other bills in these hearings—bills which the Council has not had an opportunity to study—should not be interpreted as connoting either support or opposition regarding these measures.

As a longtime supporter of U.S. participation in the Florence Agreement on the Importation of Educational, Scientific and Cultural Materials, I urge U.S. participation in the Nairobi protocol, which broadens the Florence Agreement by removing some of its limitations and extending it to various items not previously covered. The strategy for U.S. adoption of the protocol seems sound, and the proposed U.S. action even beyond the protocol's coverage merits enthusiastic endorsement.

I urge U.S. procedures fearing adverse consequences from expanded foreign competition in these materials to explore ways to adjust successfully without seeking restoration of tariffs on the affected products. I urge the Administration to make a special effort to preclude recourse to import restrictions where adversely affected U.S. producers seek and deserve government help. Whatever help is given these industries should take the form of coherent adjustment strategies addressing the real problems and needs of the respective industries in a world economy that should be made as open as possible.

H.R. 6278

To apply duty-free treatment to tetra amino biphenyl.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 6278, a bill: "To apply duty free treatment to tetra amino biphenyl."

If enacted, H.R. 6278 would amend the Tariff Schedules of the United States (TSUS) to insert a new item, Tetra amino biphenyl, which would be designated as item 404.82 with duty-free status under column 1 (MFN). The column 2 rate presently applied in the basket category 404.90 of 7 cents per lb. + 60 percent ad valorem would be the column 2 (statutory) duty rate for tetra amino biphenyl/

Tetra amino biphenyl is a new product that has not been imported in the past. The current tariff classification which would be applicable to imports of tetra amino biphenyl is TSUS item 404.90. This basket category applies to miscellaneous chemical products of a cyclic organic nature. The column 1 tariff rate for this grouping is 13.5 percent ad valorem. The column 2, (statutory) rate is 7 cents per lb. + 60 percent ad valorem.

The Department of Commerce has no objection to the enactment of H.R. 6278.

There is no domestic commercial source of tetra amino biphenyl which is a chemical material essential for the manufacture of a new fiber, Polybenzimidazole (PBI). Nor is there any domestic production of readily-available substitutes. The high capital requirements needed to begin the production of the highly specialized compound as well as the very small market demand for tetra amino biphenyl appear to make the production of the chemical unprofitable for U.S. manufacturers.

Celanese Corporation invented tetra amino biphenyl and is the sole owner of the patents to its manufacture. Celanese Corporation estimates that once their newly constructed South Carolina plant begins production of PBI, Celanese will need to import 226,000 pounds of tetra amino biphenyl in 1983. The estimated revenue loss to the United States in 1983 then would be $976,320.

Enactment of H.R. 6278 would have no impact on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

Purpose of the legislation

H.R. 6278, if enacted, would amend subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (TSUS) by adding a new provision (item 404.82) with permanent duty-free treatment for this product when imported from column 1 countries.[1] The column 2 rate of duty [2] would remain unchanged from the current classification.

Description and uses

Tetra-aminobiphenyl is a synthetic organic chemical produced from petroleum and considered to be toxic. This product is copolymerized with diphenyl isophthalate to produce high-temperature-resistant polybenzimidazoles (engineering plastics).

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Tariff treatment

Since enactment of the Trade Agreements Act of 1979, tetra-aminobiphenyl has been classified in TSUS item 404.90, a residual or "basket" provision covering certain cyclic organic chemical products. It is dutiable at a column 1 rate of 13.5 percent ad valorem and a column 2 rate of 7 cents per pound plus 60 percent ad valorem. The column 1 rate is not scheduled for staged reductions within the framework of the Tokyo Round of multilateral trade negotiations (MTN), and no LDDC rate of duty [3] is provided.

Imports of this chemical are not eligible for duty-free entry under the Generalized System of Preferences (GSP).[4]

Structure of the domestic industry

At the present time, tetra-aminobiphenyl is not produced in the United States. The only domestic importer, which uses tetra-aminobiphenyl to make polymers as described above, does not have any plans to build a plant to produce this chemical because it cannot justify the high construction cost (approximately $20–$25 million) for a single-end-use product: the polymers are sold under contract to the Air Force for use in aircraft construction. According to the importer, efforts to find a domestic source for tetra-aminobiphenyl have not been successful.

U.S. imports

Prior to 1981, this chemical was not imported into the United States in commercial quantities. In 1981, U.S. imports amounted to 7,003 pounts,[5] valued at approximately $280,000, from West Germany. Imports of this chemical in 1982 are estimated to be 8,000 pounds valued at $305,000, according to the only importer, Celanese Chemical Company, Dallas, Texas.

U.S. exports

There are no exports of this chemical from the United States since all imports are consumed domestically in the production of the polymer.

Apparent U.S. consumption

Since there is no domestic production, domestic consumption is essentially the same as the quantity of imported tetra-aminobiphenyl.

Potential annual loss of revenue

Based on estimates by the importer of the level of imports, the potential loss of customs revenues as to this product in 1983 will be approximately $1 million. In 1984, U.S. imports may increase to 220,000–265,000 pounds, depending upon demand. If this level of imports is realized, the potential loss of revenue in 1984 would be approximately $1.2–1.5 million.

Technical comments

It is suggested that the proposed item be amended to reflect the more specific name of the subject chemical by deleting "Tetra amino biphenyl" and inserting "3,3'-Diaminobenzidine". The description "tetra-aminobiphenyl" is unsatisfactory because it can be used to designate either the 2,2'- or 3,3'-isomer, though only the latter is intended to be covered.

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[3] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[4] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

[5] Source: U.S. International Trade Commission, *Imports of Benzenoid Chemicals and Products*, USITC Publication 1272, July 1982, p. 15.

H.R. 6280

To amend the International Coffee Agreement Act of 1980.

GENERAL FOODS CORPORATION,
Washington, D.C.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, 233 Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On September 16, 1982, the Subcommittee on Trade of the House Committee on Ways and Means conducted a hearing on, among several topics, H.R. 6280 which simply extends United States participation in the current International Coffee Agreement for one year, from October 1, 1982 to September 30, 1983.

As a major U.S. coffee roaster we strongly support H.R. 6280.

This extension of participation is in the best interest of the United States for these reasons:

1. The International Coffee Agreement has been successful in achieving a reasonable balance between world supply and demand, resulting in a price level fair to producing nations and consuming nations, of which the United States is the largest. We believe this is in the best long-term interest of the United States, by encouraging producer maintenance of supplies adequate to United States needs.

2. Under the treaty, prices have operated in a prescribed and reasonable range (as opposed to wide fluctuations), and this has been a positive factor for the U.S. coffee industry and the consumer. Our experience is that extreme price volatility can occur in the absence of an agreement, and this leads to a boom-or-bust cycle in coffee sales and production. In prior cycles this disruption affected consumer prices in a negative way.

Finally, in order to be effective, H.R. 6280 must be enacted before September 30. Any delay would leave a gap during which treaty provisions would not apply and would allow market fluctuation that could be extremely disruptive to both price and supply.

We, therefore, urge passage of the provisions of H.R. 6280 before September 30, 1982.

Respectfully.

ROBERT L. SEELERT, *Group Vice President.*

H.R. 6281

To amend the Act implementing the International Sugar Agreement, 1977.
[No reports or communications were received on this bill.]

H.R. 6360

To increase the column 1 rate of duty on melamine.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 6360, a bill: "To increase the current column 1 duty rate on melamine."

H.R. 6360 would increase the column 1 (MFN) duty on melamine to 11 percent ad valorem. To accomplish this objective, the Tariff Schedules of the United States (TSUS) would be amended in two ways. First, melamine would continue to be classified under present TSUS item 425.10 with a new column 1 rate of duty of 11 percent ad valorem. The column 2 (statutory) rate of duty would continue at the current rate of 25 percent ad valorem. Second, a new TSUS item, 425.11, would be created for other chemical compounds presently classified with melamine under item 425.10. The new item would have a column 1 duty of 4.7 percent ad valorem and a column 2 duty of 25 percent ad valorem. The tariff rate for item 425.11 reflects the rate of duty in effect from January 1, 1981 through December 31, 1981. The present rate of duty for these chemicals is 4.4 percent ad valorem and is scheduled to decrease incrementally to 3.5 ad valorem by January 1, 1987, as a result of multilateral trade negotiations concluded in 1979.

No provision is made in the bill to continue tariff reductions on either 425.10 or 425.11 scheduled as a result of U.S. commitments in the multilateral trade negotiations. Current GSP treatment also would be eliminated if this bill were enacted.

The Department of Commerce opposes enactment of H.R. 6360. The Department does not have available to it evidence that increased protection from import competition is needed for the domestic industry producing melamine. The Department believes that data necessary to determine whether the domestic industry is being seriously injured or is threatened with serious injury by increased imports would require a thorough investigation of competitive conditions in the industry.

Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. Under this statute, domestic industries, firms or groups of workers may petition for relief from imports. We believe this procedure, which involves a thorough investigation by the U.S. International Trade Commission (USITC), is an appropriate recourse for the domestic industry producing melamine if it feels it is faced with injurious import competition. We note further that only through this process can proper attention be given to the competitive situation with respect to products included in the coverage of H.R. 6360.

TSUS item 425.10 is subject to concessions made by the United States under the General Agreement on Tariffs and Trade and is bound against increase. Any increase in the duties on these products would render this country subject to claim for compensation or to retaliation by affected countries thus disadvantaging other U.S. industries. The Department believes it is inappropriate to jeopardize our trading interests in situations where injury has not been demonstrated.

There would be no revenue loss from enactment of H.R. 6360. Enactment of H.R. 6360 would have no impact on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

STATEMENT OF JAMES H. MILLER, PRESIDENT, PLASTICS MANUFACTURING CO.

Plastics Manufacturing Company wishes to express its strong opposition to H.R. 6360, a bill to increase the column 1 duty rate on melamine from 4.4 percent ad valorem to 11 percent. The bill would increase prices we and other industrial users would be forced to pay for melamine at a time when we are having difficulty coping with the recession. For this and other reasons set forth below, we believe that the bill is contrary to the national interest.

Plastics Manufacturing Company, located in Dallas, Texas, is one of the larger consumers of melamine crystal in the United States. We employ between 500 and 600 people, and have an annual sales volume in excess of $25,000,000. We purchase melamine crystals from domestic and foreign sources primarily for molding compounds.

Melamine is a white crystalline substance used for high-pressure laminates, molding compounds, surface coatings, paper and textile treating and coating, and adhesives. Molded products include dinnerware, ashtrays, automotive distributor caps, buttons, school and office furniture, and toilet seats.

This bill is basically a private bill for the benefit of one company—Melamine Chemicals, Inc. (MCI), which is located in Louisiana. Since MCI is essentially the only domestic producer of melamine for the U.S. commercial market [1], the bill appears designed to insulate MCI from competitive forces, thereby enabling it to raise its prices at the expense of domestic industrial users and foreign suppliers.

MCI has already tried to knock out its foreign competition by bringing antidumping actions against The Netherlands, Austria and Italy. In 1980 the Commerce Department and the International Trade Commission rejected MCI's claims. This appears to be the reason behind H.R. 6360.

The bill would also breach the international obligations of the United States. To implement U.S. commitments under the 1979 Multilateral Trade Agreements, the President proclaimed a staged tariff reduction on melamine (to 3.5 percent by 1987) as provided in the Trade Act of 1974. See Pres. Proc. 4707. A violation of our obligations would bring retaliation against U.S. exports.

The Administration is also opposing H.R. 6360 based on the adverse economic and diplomatic consequences which would result from its passage.

For the foregoing reasons we urge the Subcommittee to disapprove this bill.

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[1] The only other domestic producer, American Cyanamid, uses almost all its production "in-house".